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UNITED STATES DEPARTMENT OF AGRICULTURE

IN RE:

NATIONAL ORGANIC STANDARDS BOARD MEETING

Meeting held on the 28th day of February, 2005  
at 9:00 a.m.

The Washington Terrace Hotel  
1515 Rhode Island Avenue, NW  
Washington, D.C.

TRANSCRIPT OF PROCEEDINGS

2-28-05 NOSB Meeting Participants

Chair:	James A. Riddle
Vice Chair:	Kevin O'Rell
Secretary:	Goldie Caughlan

NOSB Members:

Andrea Caroe  
David Carter  
Gerald Davis  
Rigoberto Delgado  
Bea James  
Hubert Karreman  
Rosalie L. Koenig  
Michael P. Lacy  
George Siemon  
Julie Weisman

NOP Members:

Richard Mathews  
Barbara Robinson  
Arthur Neal, Jr.

Other Appearances:

Kim M. Dietz

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P R O C E E D I N G S

February 28, 2005

CHAIRPERSON RIDDLE: All right, I'd like to call the meeting to order. Thank you. Well, welcome to the National Organic Standards Board Meeting, and all member of the Board have a meeting book that you received this morning, which has our agenda and the various drafts we'll be considering during this meeting. Does anyone have any changes to the agenda, comments?

\*\*\*

[No response]

\*\*\*

CHAIRPERSON RIDDLE: Is there a motion to approve the agenda?

MR. CARTER: I would approve -- move approval of the agenda as printed.

MR. LACY: Second.

CHAIRPERSON RIDDLE: Is there a second? Mike Lacy seconds. Any discussions, any changes?

\*\*\*

[No response]

\*\*\*

CHAIRPERSON RIDDLE: Hearing none, all in favor say aye?

BOARD MEMBERS: Aye.

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1                   CHAIRPERSON RIDDLE: Those opposed, the same  
2                   sign.

3   \*\*\*

4                   [No response]

5   \*\*\*

6                   CHAIRPERSON RIDDLE: All right, we will  
7                   proceed, following the agenda as it was published prior  
8                   to the meeting. Are there announcements? Dave?

9                   MR. CARTER: Just a point of personal  
10                  privilege. Mr. Chair, I -- the four years I've been  
11                  here, I've never missed any minute of NOSB time.  
12                  Tomorrow morning, though, I will have to be absent  
13                  briefly. The -- it's here in town, but the mint is  
14                  issuing a new bison nickel formally tomorrow in  
15                  commemoration of Lewis and Clark, and we have a live  
16                  trained buffalo coming to be on the lawn of the Capital  
17                  tomorrow morning at 10:00 a.m. for that. And so I have  
18                  to go up there and see that.

19                  UNIDENTIFIED SPEAKER: If you see one run by  
20                  here, we know that --

21                  MR. CARTER: But anybody that's here that has  
22                  any comments that they plan on presenting as far as the  
23                  public comments tomorrow, if you have advanced copies or  
24                  anything, please give those because I am very interested  
25                  in the public comment.

1                   CHAIRPERSON RIDDLE:   Okay, and we'll keep a  
2       stack running there in your absence for you to read  
3       after you get back.   Okay, any other Board members have  
4       announcements?

5 \*\*\*

6 [No response]

7 \*\*\*

CHAIRPERSON RIDDLE: I have a couple and one is for those that don't know -- the Board members already know, but I just wanted it in the official record that Ann Cooper has submitted her resignation from the Board. And my understanding is that the procedures for filling her seat, instead of -- there's two years remaining on Ann's term and she holds a consumer rep seat. The remainder of that term will not be filled, but it will be added to the next round of nominations. So there will actually be six seats open and that will -- the call for those nominees will likely come out in March sometime, with a deadline sometime in June. But sometime in the first half of this year there will be -- the openings will be announced with the appointments made towards the end of the year to take the seats in January of 2006.

24 And I also wanted to let members of the public  
25 know that this morning we had an orientation session and

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1 discussed a lot of operating procedures of the Board and  
2 the composition of committees, and we do have, you know,  
3 some new committee members who will be introducing  
4 themselves next. But we will be updating the lists of  
5 all of the committee members on the website after this  
6 meeting. So I just wanted to mention that.

7 And just one final announcement. I've been  
8 doing a little number crunching and I just wanted just  
9 to go into the record for information purposes. I took  
10 a look at the USDA's total budget for 2004, which was  
11 \$82 billion, and I was just curious on how much is spent  
12 on the organic programs. And between the NOP and the  
13 various research dollars for organic and the organic  
14 cost share and the National Ag Statistics Service, it  
15 totals up to about 11.9 million, which, when you do the  
16 math, is 1/100th of a percent of the total USDA budget.  
17 And I just point that out because it shows we have a  
18 tremendous opportunity for growth. But that's the  
19 reality of the situation.

20 MR. SIEMON: I thought the point was how  
21 understaffed NOP is.

22 CHAIRPERSON RIDDLE: Well, that's true, too.  
23 And how much -- how much is being done for the fastest  
24 growing sector of agriculture by this program staff as  
25 well. So I just wanted to mention that for the record.

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1 Any other announcements before we move on?

2 \*\*\*

3 [No response]

4 \*\*\*

5 CHAIRPERSON RIDDLE: Okay, seeing no hands or  
6 lights, I'd ask the Board members to go around the room  
7 and introduce yourselves, and we won't go into the  
8 details that we did in our own meeting, but give a  
9 little background as well on kind of what got you here  
10 and feel free to share some of your thoughts, you know,  
11 looking forward to the coming year on the Board as well.  
12 So, Mike, would you please start?

13 MR. LACY: I'm Mike Lacy, science  
14 representative from the University of Georgia. This is  
15 my second or third year. I can't remember which right  
16 at the moment. But enjoyed very much the interaction,  
17 learning more and more about organic agriculture, and  
18 glad to be here again.

19 MR. DAVIS: My name is Gerald Davis. I'm a  
20 new member on the Board as a producer rep. I have  
21 worked in organic vegetable farming for 12 or 13 years  
22 from California. I'm an agronomist and pest control  
23 advisor by trade, and I'm looking forward to sharing  
24 this experience.

25 MS. WEISMAN: My name is Julie Weisman. I'm  
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1       also one of the new members of the Board. I -- I occupy  
2       one of the handler -- I'm one of the handler  
3       representatives on the Board. I -- I'm involved in the  
4       manufacture of organic flavors and other minor  
5       ingredients. And I look forward to the work that the  
6       Board will be doing in the new future. Thanks.

7               MR. KARREMAN: My name's Hubert Karreman, a  
8       veterinarian in Pennsylvania on the environmentalist  
9       position, one of the three. I got my start in  
10      agriculture working with the Soil Conservation Service  
11      and along the environmental issues that they deal with  
12      and that got me interested in the dairy cows. At this  
13      point I work with about 75 certified organic and  
14      transitioning dairy farms in Lancaster County,  
15      Pennsylvania.

16             MR. DELGADO: Well, I'm Rigoberto Delgado.  
17      I'm a producer from Texas, El Paso, Texas.

18             CHAIRPERSON RIDDLE: Move a little closer.

19             MR. DELGADO: And once again, I'm Rigoberto  
20      Delgado, a producer since 1988 from El Paso, Texas. I'm  
21      delighted to be here. I look forward to working with  
22      all of you. I'm impressed so far with the type, level,  
23      and quality of work and I hope I can contribute as much  
24      value as you have done so far.

25             MS. CAROE: I'm Andrea Caroe and I'm very  
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1 happy to say for the first time that I am not the newest  
2 member of this Board. This is starting my third year on  
3 the Board in the environmental seat. I have a  
4 background in running environmental laboratories in  
5 compliance with EPA regulations. Also as -- I worked in  
6 the past as an organic certifier. Presently, I am a  
7 certifier to an organization that certifies to crop-  
8 specific regions, specific, IPM environmental standards.  
9 So -- and I hold the -- I hold the environmental seat  
10 and I am chair in the Accreditation Committee of this  
11 Board.

12 CHAIRPERSON RIDDLE: It should be on. Yeah,  
13 this one has to stay on.

14 MR. O'RELL: Okay.

15 CHAIRPERSON RIDDLE: But you might've just  
16 shut it off.

17 MR. O'RELL: I would've known you had the  
18 master --

19 CHAIRPERSON RIDDLE: There we go.

20 MR. O'RELL: Okay.

21 MS. CAUGHLAN: That's right.

22 MR. O'RELL: I'm Kevin O'Rell and I'm a  
23 handler representative, also chair of the Handling  
24 Committee. This is my third year on the Board, coming  
25 on in 2002, and I bring an expertise in over 30 years of

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1 food product development in the food and dairy industry,  
2 which includes in the past 14 years of my own business  
3 in product development, consulting, and regulatory  
4 requirements. The last nine or ten years have been  
5 involved in product development in the organic industry.

6 CHAIRPERSON RIDDLE: And my name is Jim Riddle  
7 and I am a certifier representative on the Board, a  
8 long-time organic producer, inspector, and currently  
9 work for Rodale's newfarm.org as an organic policies  
10 specialist. And I know that we have a lot of items on  
11 our agenda for this meeting, and then there are other  
12 very critical items not on our agenda that are  
13 undercurrents to the meeting as well. But I look  
14 forward to a very productive meeting, and we'll try and  
15 keep it light, keep it positive, and make progress  
16 wherever we can.

17 MS. CAUGHLAN: Goldie Caughlan, consumer  
18 representative from Seattle, Washington. I work with a  
19 chain of retail food cooperatives, but my position is  
20 not as a retail representative, but as a consumer rep.  
21 I think that's about it.

22 MS. KOENIG: My name is Rose Koenig and I'm a  
23 producer representative from Gainesville, Florida.

24 MR. SIEMON: George Siemon. I'm the farmer  
25 rep and I'm a organic egg farmer and vegetable farmer.

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1 MS. JAMES: The most important one never says  
2 very much. My name is Bea James and I'm new. This is  
3 my first year and I am the retailer representative for  
4 the National Organic Standards Board. I'm from  
5 Minneapolis, Minnesota and I am the senior full-health  
6 manager for a 20 upscale grocery store chain in the twin  
7 cities are called Lunds -- and it's one of the only  
8 grocery stores where we have organic cakes on the shelf,  
9 carpet on the floor, and chandeliers in the ceiling.  
10 And I'm looking forward to where this committee has been  
11 and where we're going and how we can stay there.

12 MR. CARTER: Dave Carter. I'm one of the  
13 grizzled old veterans on the Board finishing our last  
14 lap. Testing.

15 CHAIRPERSON RIDDLE: Yeah. No, no, go ahead.

16 MR. CARTER: Okay.

17 CHAIRPERSON RIDDLE: Yeah. There, you turned  
18 it off.

19 MR. CARTER: There we go. The --

20 MR. SIEMON: That'll teach him.

21 MR. CARTER: Anyway, I'll learn it eventually  
22 here. Consumer rep; also chair of the Policy  
23 Development Committee. I spend part of my life as the  
24 executive director of the National Bison Association; a  
25 part of it as a founder and principal of a new pet food

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1       company that kind of a grew out of a project of helping  
2       natural ranchers earn a premium on more of the animal;  
3       and part of my life doing some consulting, and part of  
4       my life trying to get one kid out of college and one  
5       through high school.

6               CHAIRPERSON RIDDLE: All right, thanks. And I  
7       would like to point out that we have four members whose  
8       terms have just ended. And Mark King will be joining us  
9       later tonight. His flight got delayed. Owusu Bandele  
10      won't be able to be with us at all for this meeting.  
11      And I believe Becky Goldberg will be coming in on the  
12      last day or day and a half. But we do have the honor of  
13      having Kim Dietz here with us, and so I'd like to  
14      introduce Kim. If you'd like to say a few words. And  
15      at times, as there are drafts that we're considering  
16      that Kim has helped develop, the reason the outgoing  
17      Board members are invited is because they do have  
18      expertise still kind of in the mix. So they're invited  
19      to the last meeting -- or the first meeting after their  
20      term ends, with the opportunity to provide information.  
21      So, Kim, if you'd like to --

22             MS. DIETZ: I'm going to use Bea's mike.  
23      Would you turn it on for me?

24             MR. CARTER: There we go. When the red  
25      light's on, you know it's on.

1                   MS. DIETZ: Kim Dietz. I have spent the last  
2 five years on this National Organic Standards Board.  
3 It's been a pleasure, it's been a pain, and I'm glad to  
4 off and at the same time I'm very nervous to go out, so  
5 to be honest with you all. I was the handler  
6 representative and I believe that's about it. I will be  
7 here -- recommendations on the committee level and I'll  
8 certainly be here to give you my input on that.

9                   CHAIRPERSON RIDDLE: Thanks, Kim, and thanks  
10 for your years of service. I think we should give Kim a  
11 round of applause. Well, before we move to the minutes,  
12 I just would like to explain a little bit about how I  
13 intend to use the gavel. I think the gavel itself is  
14 pretty self-explanatory; that people may or may not have  
15 noticed yet the USDA stress turkey here. When the -- at  
16 the last meeting in October, we had gotten these stress  
17 toys that were given to each of the outgoing Board  
18 members, along with a jar of raspberry jam, and there as  
19 a chicken, a turkey -- well, no, a chicken, a lamb, a  
20 pig, and a cow. But they come in sets of five, or at  
21 least they're cheaper if you buy them in sets of five,  
22 so knowing me, I got the full set, so I was left holding  
23 the turkey. I didn't have anybody to award it to at  
24 that time. And so I thought it'd be appropriate to have  
25 it here and if things are getting stressful, if you see

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1 me reach for the turkey, that's a bad sign. So we want  
2 the turkey to be just left here and have a stress-free  
3 meeting as we possible can.

4 MS. CAUGHLAN: I just want to know, is it  
5 organic and heirloom?

6 CHAIRPERSON RIDDLE: No, no, this is the  
7 hybrid modern turkey. It's not edible. And then also,  
8 as we move through the next few days, we're going to  
9 change the way we have dealt with some of our business  
10 slightly, and that is, I'm asking the committee chairs  
11 or whoever is presenting a draft for action, for a vote  
12 on behalf of the committee, to make a motion to  
13 introduce the draft, then that way it's all clear what  
14 exactly is on the table for discussion. And we can  
15 always move to set it aside, to send it back to  
16 committee, or to hold it overnight for further  
17 deliberation and development, but we will move and  
18 second items to place them under discussion to begin  
19 with. So that's a little change of procedure.

20 The other change is that we'll try and  
21 minimize the redundancy of -- in the past we have  
22 discussed things one day and come back and voted on them  
23 a different day. We'll try and wrap up votes when we  
24 have discussed an item. It doesn't mean we can't hold  
25 them over and vote the next day if there's a good reason

1 to, but that way we can avoid some redundancy and be a  
2 little bit more efficient in how we use our time. Rose?

3 MS. KOENIG: I just noticed in my book that I  
4 was missing a finding fact report. I didn't know if  
5 anyone else was and just to make a note to check,  
6 because I'm going to need a copy. I don't have anything  
7 behind that tab.

8 MS. CAUGHLAN: Which tab is it?

9 CHAIRPERSON RIDDLE: It's the meth tab. It  
10 comes after number five in the Livestock Committee  
11 materials.

12 MS. CAUGHLAN: Well, it's --

13 UNIDENTIFIED SPEAKER: You're missing the  
14 whole thing?

15 CHAIRPERSON RIDDLE: Rose is missing the meth  
16 tab. So other people should check to see.

17 MS. WEISMAN: Twenty pages?

18 CHAIRPERSON RIDDLE: Yeah.

19 MS. KOENIG: All right.

20 CHAIRPERSON RIDDLE: And it was dated May 21,  
21 2001. It's the original technical review. Okay,  
22 everybody else has it, great. All right.

23 MR. CARTER: After which tab?

24 CHAIRPERSON RIDDLE: Well, after tab five and  
25 then you look for meth.

1                   MR. CARTER: Yeah, yeah. Mine is actually a  
2                   -- I do have something there, but it's on chelated  
3                   mineral complexes, so --

4                   CHAIRPERSON RIDDLE: Oh.

5                   MR. SIEMON: We'll look around, it might be in  
6                   it.

7                   CHAIRPERSON RIDDLE: It's not in front of the  
8                   chelates?

9                   MR. CARTER: Okay.

10                  MR. SIEMON: Look around, it might be there.

11                  MR. CARTER: Oh, okay. Wait.

12                  MR. SIEMON: I'm sure it's --

13                  CHAIRPERSON RIDDLE: Well, we all want to get  
14                  on the same page here.

15                  MR. CARTER: Oh, yeah, it is. Okay.

16                  CHAIRPERSON RIDDLE: You do have it?

17                  MR. CARTER: It's ahead, okay.

18                  CHAIRPERSON RIDDLE: Okay. All right. So the  
19                  next item then on the agenda is the approval or  
20                  consideration of the October 2004 meeting minutes. Is  
21                  there a motion to approve? Dave?

22                  MR. CARTER: Yeah, let me -- Mr. Chair, I  
23                  would move to approve the minutes, though, with several  
24                  changes. You had gone through and made some changes to  
25                  the minutes and had asked me to review those as well. I



1 did go through those and the changes that you have  
2 offered and circulated to the committee, I would move  
3 that.

4 MS. CAUGHLAN: Second. I'm going to second  
5 it.

6 UNIDENTIFIED SPEAKER: I haven't seen them.

7 CHAIRPERSON RIDDLE: Yeah.

8 MR. SIEMON: Electronically we got them.

9 MS. CAUGHLAN: I was on vacation. They came  
10 late, but I have looked them over now and that's why I  
11 can second them. But if you haven't seen them.

12 UNIDENTIFIED SPEAKER: No, that's all right.

13 MR. CARTER: And if you want me to review, I  
14 mean, I will go down and summarize. Some of them are  
15 just grammatical.

16 CHAIRPERSON RIDDLE: Yeah, I think it would be  
17 good if you would --

18 MR. CARTER: Okay.

19 CHAIRPERSON RIDDLE: -- please. I know  
20 it's --

21 MR. CARTER: The changes that are in on page  
22 one, under approval of the 2004 meeting summary, it was  
23 the -- four changes were proposed by Mr. Riddle and not  
24 Mr. Mathews. The Executive Committee conference call  
25 minutes the Board reviewed, the June and July Executive

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1 conference call minutes, and did not approve them. The  
2 Board does not approve the Executive Committee minutes.

3 Under the Livestock Materials portion of it,  
4 under the four options, under number two was to change  
5 that to allow "over-the-counter" animal medications, but  
6 to provide a negative list of all prohibited ones.  
7 Number four was to specify that under the minor  
8 use/minor species that Congress had passed, legislation  
9 for minor use/minor species, and that the Board also  
10 discussed whether more communications with higher levels  
11 of USDA and FDA can facilitate the approval process in  
12 the future.

13 Down on page two, under the framework for  
14 collaboration, under the discussion of the Board's  
15 collaboration document, it was noted that Ms. Robinson  
16 agreed to provide a collaboration policy for NOSB  
17 consideration. And then moving to page four, under the  
18 Policy Development Committee section, where it said on  
19 behalf of USDA, Ms. Robinson concurred to add a sentence  
20 saying Ms. Robinson agreed to provide written response  
21 to all four NOSB issues papers.

22 MS. CAROE: Which was that? Where is that?

23 CHAIRPERSON RIDDLE: It's at the top of page  
24 four, right above public comments section.

25 MS. CAROE: Um-hum, okay.

1                   MR. CARTER: And then also on page four is  
2 just a typographical correction on John Smiley. At the  
3 top of page five --

4                   CHAIRPERSON RIDDLE: Joe Smiley.

5                   MR. CARTER: Excuse me, Joe Smiley. At the  
6 top of page five, the Board voted unanimously to accept  
7 Materials Committee drafts of the recommended approach  
8 to Sunset as presented by Ms. Koenig as amended, to add  
9 the words as amended. Under the materials approved as  
10 food contact substance update -- and this one had  
11 several changes in it, so let me just -- and I'll read  
12 it slowly. The -- as recommended to be amended, the  
13 paragraph would read, On behalf of the Handling  
14 Committee, Mr. O'Rell reiterated the fact that the  
15 committee's report -- new language -- which encouraged  
16 the addition of six food contact substances -- again,  
17 new language -- to the National List, despite the  
18 possibility that they might be considered food contact  
19 substances -- end of new language -- had been accepted  
20 by the full Board at the last meeting. The six  
21 materials in question: four boiler water additives,  
22 activated charcoal, peracetic acid are in the NOP  
23 processing docket.

24                   The April report: new language quoted from and  
25 the new language on NOP policy statement,

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1 differentiating between synthetic substances as  
2 ingredients in contact substances. And then the  
3 remainder of the paragraph being new language which  
4 reads, the April report also noted that the Handling  
5 Committee would prioritize in their work plan to clarify  
6 the qualification of materials on the foods contact  
7 substance list.

8 Further down on the page, again, on page five,  
9 under Livestock Committee, the wild caught and  
10 aquaculture standards. The sentence would read,  
11 Mr. Siemon announced the Livestock Committee's intention  
12 to form a task force with two working groups, one to,  
13 and then inserted the word address, replacing the word  
14 develop. The remainder of that sentence remaining  
15 unchanged. And let's see. Whoops, I'm going up. On  
16 page six, under the Materials Committee, the revised  
17 Federal Register notice for petitioned substances, the  
18 paragraph beginning with Ms. Koenig presented a draft to  
19 request, was to add a sentence that says the draft  
20 remained at the committee level for further development.

21 Under Policy Development Committee, the same  
22 page, policy for NOS -- scheduling NOSB meetings and  
23 calls, where it says Mr. Carter presented a draft of the  
24 meeting conference call schedule protocols, again, to  
25 add a sentence stating the draft remained at the

1 committee level for further development.

2 On page seven, under fish meal vote, would be  
3 to change it to say the Board voted to accept rather  
4 than consider. The Livestock Committee's response to  
5 the NOP directive. So the words response to the NOP are  
6 inserted in that sentence. Under page eight, the  
7 reference to Emily Brown Rosen is deleted under the  
8 proxy for Brandon -- Brendon O'Neal [ph]. And that is  
9 it. Okay. So those are included. The amendments is a  
10 part of my motion to approve.

11 CHAIRPERSON RIDDLE: Okay. And your secretary  
12 accepts that?

13 MS. CAUGHLAN: Yes.

14 CHAIRPERSON RIDDLE: And is there any  
15 discussion to any of those suggested changes to the  
16 minutes?

17 \*\*\*

18 [No response]

19 \*\*\*

20 CHAIRPERSON RIDDLE: Seeing none, we'll go by  
21 voice vote on this again. All in favor say aye?

22 BOARD MEMBERS: Aye.

23 CHAIRPERSON RIDDLE: Those opposed, the same  
24 sign.

25 \*\*\*

1 [No response]

2 \*\*\*

3 CHAIRPERSON RIDDLE: Okay, thanks, Dave.

4 Yeah, George?

5 MR. SIEMON: Just to be incentive for the  
6 people in the audience, are we going to try to have  
7 PowerPoint up tomorrow, so as we go through some of  
8 these documents, that they have the chance to see them?

9 CHAIRPERSON RIDDLE: Yeah. Yes, I was just  
10 going to talk about the kind of difference between  
11 discussion items and action items. And the rest of  
12 today's agenda is, if you see on our agenda, called  
13 discussion items, items for discussion, and those are  
14 really updates on the committees' works in progress and  
15 won't be considered for votes at this meeting. And most  
16 of those there are very early stages of drafts, so  
17 really no drafts on the table yet. Tomorrow, all items  
18 that we will be considering for action or vote will be  
19 on the screen so that members of the public can see  
20 those -- you know, PowerPoint -- as we're considering  
21 them. So -- yeah. But today, we won't be voting on  
22 anything today. It's more just a discussion day.

23 So with that, I'm moving on to the  
24 presentation of discussion items, the reports from the  
25 committee chairs. And I have asked the committee

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1 chairs, when you are finished with your discussion items  
2 that are listed, to also just summarize, just a few  
3 words, the action that you'll be bringing forward as  
4 well. So you weren't here earlier when I mentioned  
5 that, but --

6 MS. CAROE: I get to be the first one.

7 CHAIRPERSON RIDDLE: Yes. Well, yeah. I  
8 mean, at least you only have one of each. So I hate to  
9 put you on the spot, but accreditation starts with A  
10 and --

11 MS. CAROE: I always --

12 CHAIRPERSON RIDDLE: -- and so does Andrea.  
13 So, Andrea, if you would discuss where the committee is  
14 at on the peer review and the ANSI report.

15 MS. CAROE: Okay. We have one discussion item  
16 that we will be looking at in the very near future, and  
17 that is the operationalized -- institutionalized I think  
18 is the word we used for the peer review process. We had  
19 this section item for awhile and we tabled it until we  
20 saw the ANSI report and the response of the NOP; to take  
21 a look at how it's going to be used and come up with  
22 some reasonable expectations of how peer review will be  
23 standardized moving forward. This report came out very  
24 near the time when we were publishing the Federal  
25 Register action items. This committee did not have

1       enough time to do a thorough job at looking at this in  
2       order to have a vote on a procedure. So -- and I think  
3       the members probably now have had a chance to read that  
4       document. We will be getting together and looking at  
5       it. We'll have discussions with the NOP and create a  
6       document of procedure for how this will move forward.  
7       But at this time, it's just on the plan and we really  
8       have not done no work on this subject. Jim, do you want  
9       to add anything to that?

10               CHAIRPERSON RIDDLE: Well, yeah, I was -- I  
11       read the ANSI report and then the NOP response when it  
12       first came out, and then was reading it again on the  
13       flight here yesterday. And you know, I definitely see  
14       some items where the Board can have a role in both  
15       providing some recommendations for addressing some of  
16       the deficiencies or issues that were identified during  
17       the ANSI audit, but also, the Board having, you know --  
18       you know, possibly a role in the ongoing review process.  
19       So I think that the report certainly noted numerous  
20       areas of improvement and you know, document control, the  
21       lack of a quality manual, and quite a few areas, and I  
22       certainly encourage everyone to read that. It's the  
23       kind of thing that is fundamental to the future and the  
24       credibility. The integrity of the whole program is the  
25       structure of accreditation. That's what it's all about.

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1       So I ask people to provide input to the committee on  
2       this topic to help us craft a very well-informed  
3       recommendation.

4               MS. CAROE:  Yes.  Be sure the input -- the  
5       valuable input out there of certifiers that have gone  
6       through the accreditation process and have dealt with  
7       the ISO requirements would be helpful and we will be  
8       moving forward, yes, making recommendations, but I  
9       really feel more in a collaborative sense, working with  
10      the Program for the overall success of the Program and  
11      strengthening that.  So that is -- that's it in a  
12      nutshell.

13             CHAIRPERSON RIDDLE:  Any other comments,  
14      questions, members of the Board, on the topic?

15   \*\*\*

16      [No response]

17   \*\*\*

18             MS. CAROE:  Okay.  And then the only action  
19      item we do have for this meeting is, we will be voting  
20      on a recommendation for standardizing some of the  
21      information required on certificates, in order to add  
22      some consistency to what is being represented out there,  
23      the document, the certificate, and to facilitate  
24      commerce experience.  We are aware of some difficulties  
25      with verifying those organic ingredients because of some

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1 of these varieties of certificate formats that are out  
2 there. So our recommendation is in the meeting book and  
3 will be voted on in this meeting. And I don't have  
4 anything else to say on that. Is there any questions  
5 about that process? Anything?

6 \*\*\*

7 [No response]

8 \*\*\*

9 MS. CAROE: Then I'm done.

10 CHAIRPERSON RIDDLE: Okay, thanks, Andrea.  
11 All right, next is Materials. Rose.

12 MS. KOENIG: Well, actually there's one  
13 discussion. But just to note, from the last meeting, we  
14 were asked to look at the petition request form that's  
15 on the web and kind of update that, but that -- which we  
16 did and presented a draft at the last meeting, but that  
17 was kind of placed on hold. It wasn't considered a  
18 priority item for this meeting. So we will confer back  
19 to the NOP and perhaps pick up those, because there was  
20 some changes made in that petition notice. And once we  
21 get information that that's something that the NOP wants  
22 us to go back and do, as far as work, will resurface,  
23 the draft will reappear. So that's one thing.

24 And then as far as the -- in the book it says  
25 discussion of procedures, we will -- you know, so far

1 the talk as far as committees just identifying materials  
2 prior to the Federal Register notice going to the public  
3 to identify materials, if you look at the Sunset policy  
4 that we adopted at the last meeting, it gives each  
5 committee the privilege of identifying materials  
6 themselves. So, you know, right now that we just -- we  
7 have given ourselves that privilege. I would like to  
8 say that we, as the Materials Committee, can provide  
9 guidance. I'm not sure how much guidance you want. I  
10 know some of the issues that the committees need to be  
11 aware of is identifying materials that are the list that  
12 are not consistent with the aqua criteria, because many  
13 of them, now that we have those forms, we are  
14 identifying where in the aqua criteria each material  
15 falls. And if you remember the draft from the last  
16 meeting, where I went through the crops and kind of  
17 divided the categories up and identified materials that  
18 fall within those categories, there were a few in crop  
19 that weren't consistent, and livestock. We haven't gone  
20 through that exercise, but that's certainly something  
21 that committee chairs and committees should be aware of.  
22 If there's things that don't fit in either the crop and  
23 the livestock categories, they should be at least  
24 identified and perhaps looked at in terms of review.

25 If you know something, if there's new

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1       technical information on something, that that certainly  
2       could necessitate a review by the committee. If you  
3       feel that there may have been a technical review that  
4       was not adequate in the past, that may be a reason for a  
5       committee to look at, determining that a certain  
6       material may need to be reviewed.

7               Just be aware that there's \$300,000 to do  
8       reviews for both Sunset and the petition, so we do have  
9       the budget to look at numerous materials. And if a  
10      committee feels that there is some justification for  
11      doing that review, they should not hesitate identifying  
12      those materials quickly. Because once a Federal  
13      Register notice goes out to the public, we will have a  
14      backlog of materials that we're going to have to deal  
15      with. Some may not need technical review, some may. So  
16      if we can jumpstart the process via the committee  
17      identification, it's something that I think would be  
18      helpful.

19             Just one question of clarification that I  
20      think the committee had dealt with and we've talked  
21      about it on the Board, and maybe at this meeting at some  
22      time we can get clear is that I think we've determined  
23      that Sunset is not a time, and that was within the  
24      statement to change an annotation. It's simply to  
25      either keep something on as it stands in the regulation

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1       now or take that off. And so the question -- and I  
2       think that we still need some clarification, and that's  
3       something I think the committee needs work on, is that  
4       the if the annotation needs to be changed, our  
5       assumption now is that the -- it would not be renewed  
6       and it would have to, I guess, be repetitioned. So that  
7       is just something I throw out because it's something I  
8       think that the Materials Committee's going to have to  
9       determine, because I have a feeling that on some of the  
10      materials, they may be -- the committee may want to  
11      review them because of an annotation, yet, our hands are  
12      kind of tied as far as the fact that we can't alter a  
13      material on the list. It's either yea or nay. So I  
14      think that's probably the critical issue that the  
15      Materials Committee has to think about, and it has to be  
16      clear to both the public and the Board how that process  
17      would proceed, because it could jeopardize or create a  
18      gap between material that the industry is using and the  
19      petitioning process, if it needed to be repetitioned.

20               CHAIRPERSON RIDDLE: Yeah, Rose, it's my  
21      understanding from our discussion of this last time that  
22      we did amend the draft to allow technical-type  
23      corrections to annotations, because there are some items  
24      like the chlorine materials, where the annotation does  
25      not reflect the prior Board's language for the

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1        annotations. So those kind of changes to annotations  
2        could be considered during the Sunset process, but that  
3        the Sunset process was not a time to expand the allowed  
4        uses of a substance by removing or extending its  
5        annotation. But that would take a new petition to  
6        extend the allowed uses or to change the form of the  
7        substance. You know, a substantive change to the  
8        annotation, so to speak, would take a petition, but a  
9        technical change would not. Now would be the time to  
10       make those changes. Hugh?

11                MR. KARREMAN: Would the new petition have to  
12       have new TAP as well, or could you use the existing TAP  
13       that was done?

14                CHAIRPERSON RIDDLE: Yeah. And it would  
15       depend on what the request in the petition was. If the  
16       petition, you know, requests a use that had been  
17       considered in the prior TAP review, then there wouldn't  
18       be a need for a new TAP. If it's considering something,  
19       or if it's requesting something that is a new use that  
20       was not addressed at all, then there certainly be  
21       warranted a new technical review.

22                MS. KOENIG: Yeah. And, Jim, you know, back  
23       -- you know, I recall that being the understanding. I  
24       just think that what we may view as a technical change  
25       and what may in reality what -- how the regulation would

1 view a technical change, I think might be different. So  
2 what I'm just saying is that I think that has to be  
3 clear because I think that that is an area that we may  
4 run into some issues, and we might as well try to work  
5 out that process before we get there and find out that  
6 there may be issues due to the kind of -- around the  
7 subject of annotations.

8 CHAIRPERSON RIDDLE: So I just wanted to make  
9 sure that I captured, just kind of in summary, some of  
10 the guidance that you're providing to each of the Crops,  
11 Livestock, and Handling Committees as they prioritize  
12 substances for early review, to look at them whether  
13 they do fit in the OFPA categories and fit the OFPA  
14 criteria, and whether or not there's new technical  
15 information about a substance, or if there's a sense  
16 that the prior review was inadequate or not sufficient,  
17 I guess. So those would be some factors to consider,  
18 right?

19 MS. KOENIG: Yeah. And I think, you know, as  
20 we proceed, if there are issues out of our control, you  
21 know, because of changes that --

22 CHAIRPERSON RIDDLE: Um-hum.

23 MS. KOENIG: -- may be of a legal matter on  
24 some areas of the list, then that -- then those things  
25 would have to be addressed in some guidance. But at

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1       this point, we are going to offer guidance just on  
2       what's here today and now for all the committees.

3               CHAIRPERSON RIDDLE:   And this early review --  
4       this topic came up over lunch -- you know, prioritizing  
5       a substance for an early review does not mean that the  
6       substance would go off of the list any sooner, it's  
7       just, as informed stakeholders, we understand that some  
8       substances are problematic, or we know that they're  
9       going to be identified for review in this process.   So  
10      it's just jumpstarting the scientific review.   It has  
11      nothing to do with any of those substances disappearing  
12      or not being renewed.   It's really to get the science so  
13      that we can make a better informed decision, or the rest  
14      of you that'll still be on the Board in 2007 can make a  
15      decision at that time.   Okay, anything else?   Any --  
16      Rose?   Or any questions?   Further comments for Rose?

17             MS. CAROE:   Just one question.

18             CHAIRPERSON RIDDLE:   Yeah, Andrea.

19             MS. CAROE:   You want the subcommittees to go  
20      and look at the list and determine which ones may be  
21      problematic according to OFPA and require a further TAP,  
22      is that correct?   Is there going to be a process where  
23      the committees are going to bring those materials to --  
24      does the -- who has the authority to order the TAP, is  
25      it the committee or is it the Board or is it the

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1 Materials Committee, or what do you foresee procedurally  
2 how that would go?

3 MS. KOENIG: Well, I think -- can we defer,  
4 maybe, that question until -- because some of this is  
5 covered in some of our action items. So I think when we  
6 get to that action item, in terms of kind of the  
7 internal workings of the Sunset procedures, I think some  
8 of that question will be answered. So I don't want to  
9 kind of discuss it now and then go back to it. But if  
10 there's something that -- if after we review that and  
11 it's still not clear or we have to expand on things, I  
12 think that would be the appropriate time to -- and in  
13 the meantime, I'll look over that and make sure that it  
14 is addressed, and if it isn't, we can kind of discuss  
15 that at that point, if that's fine with you.

16 MS. CAROE: That's fine.

17 CHAIRPERSON RIDDLE: Okay, anything else?

18 \*\*\*

19 [No response]

20 \*\*\*

21 CHAIRPERSON RIDDLE: All right, Mr. Carter,  
22 the Policy Development Committee.

23 MR. CARTER: Okay, thank you, Mr. Chairman.  
24 Coming out of the October meeting, the Policy  
25 Development Committee had a work plan that had six

1 specific items on it and then a couple more have been  
2 added along the way. So the two items that we have are  
3 the top and the bottom of that list, and which is why  
4 one has been moved forward and the other one there's not  
5 a lot to talk about at this point.

6 But at the top of the list was the -- was the  
7 discussion or was the executive director job  
8 description. Just for some background information, the  
9 Organic Food Production Act does provide for a staff  
10 director, or as we call it, executive director, to be  
11 provided for the NOSB. It wasn't until just this last  
12 round that, actually, funds have been appropriated to  
13 facilitate that. And so in trying to draft this, in  
14 working with NOP, recognizing that that individual will  
15 be a federal employee and have to go through all of the  
16 appropriate requirements and qualifications for that,  
17 but at the same time, in trying to devise a job  
18 description that fits our needs and really has that  
19 individual responding to the NOSB, the Policy  
20 Development Committee, then, has developed the draft  
21 document that was forwarded to Barbara in December and  
22 she will probably provide some comments on where they're  
23 at in that process at this point.

24 But let me just go through and -- and since  
25 it's not in the book here, just to review the things

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1       that have come out, the Policy Development Committee  
2       also relied on Kim Dietz to advise because of her  
3       background in human resources as well. So anyway, the  
4       description that comes through talks about the  
5       responsibilities of the executive director being --  
6       including but not being limited to several areas.  
7       Number one, helping to organize the meetings of the  
8       Board and committees. And since it's not in the book, I  
9       will try and get a printed copy to circulate to everyone  
10      here, too, although it was circulated previously.  
11      Number two, to assist the Board's secretary in recording  
12      meeting minutes; document the proceedings of the  
13      standing committee meetings; maintain all Board archives  
14      and records; serve as the primary operational liaison to  
15      the National Organic Program; next is, in consultation  
16      with NOP, to serve as the primary operational liaison  
17      with other government agencies, and that refers to the  
18      interaction that we have with agencies such as EPA or  
19      FDA; next, in consultation with the Board chair and to  
20      the chairs of the appropriate committees, the executive  
21      director will manage the work plan established by the  
22      Board; next, assist in the preparation of all Federal  
23      Register notices pertaining to activities of the Board;  
24      next, represent the Board in fulfilling the statutory  
25      responsibilities of convene technical advisory panels;

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1 and finally to assist the Board in the preparation of  
2 policy recommendations. So those are the general job  
3 descriptions.

4 When it comes to the requirements, we have  
5 recommended that, under the required qualifications,  
6 there be seven areas, specifically beginning with the  
7 education or training in management, administration,  
8 agriculture, food science, communications, public  
9 administration or related fields; secondly, education  
10 and training in chemistry and/or biology; third, ability  
11 to manage and administer multiple tasks; fourth,  
12 experience in working with volunteers and public  
13 agencies; fifth, proven ability to write and do public  
14 speaking; sixth, good computer skills; and seventh,  
15 ability to take the initiative and follow through with  
16 assigned duties.

17 And then under the desired qualifications is  
18 knowledge of agencies and interests involved in the  
19 implementation of the NOP, or the National Organic  
20 Program, and secondly, experience in management,  
21 education, and communications. So there are the  
22 required qualifications that, at the top, the food  
23 science, chemistry, biology, and then the usual  
24 administrative management-type of qualifications.

25 There was a lot of discussion there, in trying

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1 to, you know, really cover all of the things here, but  
2 make sure that this didn't become just a clerical  
3 position, but it really was an executive director  
4 position to have some liaison with -- you know, some of  
5 the things that might be assigned with that. So that  
6 was what was -- has been forwarded to the Program and  
7 they will take it from there. So --

8 CHAIRPERSON RIDDLE: And I want to point out  
9 that that draft was reviewed and approved by the  
10 Executive Committee. But this is just our wish list.  
11 It's been turned over. This is not a job posting at  
12 this time, so don't apply yet. Wait until it comes back  
13 out on the other end from USDA.

14 MR. CARTER: Okay. So -- questions on that?

15 \*\*\*

16 [No response]

17 \*\*\*

18 MR. CARTER: Okay. Then the second item,  
19 which, as I mentioned, was at the bottom of our work  
20 plan, so there's nothing to be presented at this time.  
21 But that is the guidance for temporary variances on  
22 research under 205.290(a)(3). And specifically, what  
23 that refers to is the temporary variances for practices  
24 used for the purpose of conducting research or trials of  
25 techniques, varieties, or ingredients used in organic

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1 production or handling, and it's trying to define --  
2 now, that's practices and not substances. But what does  
3 that mean, and we had some discussion on this over lunch  
4 -- in trying to facilitate research of organic practices  
5 in a manner that doesn't threaten somebody's organic  
6 certification, and how do we define that? I know in  
7 here it talks about the Policy Committee working in  
8 conjunction with the Crops Committee, but even through  
9 the discussion at lunch today, it seems like there's  
10 some relationship that may come forward with some  
11 livestock issues as well. So this is one that we don't  
12 have anything. We're beginning the process and this  
13 will be part of our work plan going forward. But any  
14 input that we can get at this point will be helpful.  
15 So --

16 CHAIRPERSON RIDDLE: Yeah. Any other -- any  
17 questions, comments? Yeah, Rose.

18 MS. KOENIG: I'm sorry. I don't want to go  
19 back, but I have to go back, because I just thought  
20 there is a little more discussion. I just wanted to put  
21 on the record on the draft job description, and I think  
22 I stated it in discussions before that, you know, I  
23 personally believe that, you know, our first and  
24 foremost jobs is the material issue. And although I  
25 think that a lot of the other characteristics are very

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1 noble in a person, that it still is firmly my belief  
2 that these material issues aren't going away, in fact,  
3 they're getting more complicated every day, especially  
4 with the Sunset review process, and that really -- that  
5 -- a person with that technical background in either  
6 food science or chemistry, to me, is the utmost -- of  
7 utmost importance, because I think that is something  
8 that -- again, not to be insulting to anyone at the NOP,  
9 that I think that that is also a skill that would be,  
10 really, a big additive to their staff.

11 MR. CARTER: Well, and just -- the NOP has  
12 conveyed that same desire, also. I mean, that's -- so  
13 you're -- I don't think that's being insulting or  
14 anything there, because I know they recognize and that's  
15 why we have put those things up at the top of the list  
16 of required qualification.

17 Okay. Then, Mr. Chair, before you go on to  
18 the next one, I'll just give a trailer here of what's  
19 coming, coming attractions from the Policy Development  
20 Committee over the next couple of days -- is that  
21 tomorrow we will talk about the livestock medication  
22 recommendations that were made by the NOSB, but have not  
23 been approved by the FDA. Again, that was coming out  
24 with the list of options, so to speak, of how we might  
25 proceed with that. In cooperation with the Livestock

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1 Committee, we have developed a draft document to talk  
2 about how we might proceed with those.

3 Also, tomorrow afternoon is the policy for  
4 NOP/NOSB collaboration. And again, that is to consider  
5 adoption of the policy to be presented by NOP. Then on  
6 Wednesday morning, if you haven't had enough of Policy  
7 Development, we're back with the Board policy and  
8 procedure manual revisions. We did talk about that in  
9 our orientation this morning. But again, coming out of  
10 the meeting, some of the new procedures we've drafted up  
11 and have put those into the manual, which was posted for  
12 public comment.

13 Secondly is the handling of organic and non-  
14 organic ingredients in the "Made With" category. And  
15 again, a draft document has been developed by the Policy  
16 Committee that is in the book here.

17 And then finally is the request for the NOP's  
18 support for changes to the use of the word organic on  
19 the AAFCO-approved fertilizer labels. And again, this  
20 was something that was discussed. It's a recommendation  
21 to NOP on how they communicate this issue. It is one  
22 that was approved by the Policy Committee, but not  
23 unanimously. And so in the draft document you have both  
24 the committee report and the minority report.

25 CHAIRPERSON RIDDLE: And we will be having a  
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1 report from the liaison from AAFCO earlier in that day  
2 that will further inform our consideration of that.  
3 Anything else for Dave -- the Policy Committee?

4 \*\*\*

5 [No response]

6 \*\*\*

7 CHAIRPERSON RIDDLE: Okay. Well then, we're  
8 going to hit rewind and go back to Materials, because  
9 Rose has pointed out that she didn't describe or  
10 summarize the action items that the Materials Committee  
11 will be presenting in the next days.

12 MS. KOENIG: See, if it's not on the agenda --

13 CHAIRPERSON RIDDLE: Sorry.

14 MS. KOENIG: What we're going to be discussing  
15 -- and I guess only on Wednesday -- will be just a  
16 discussion of the synthetic versus nonsynthetic. This  
17 was a draft. The first draft was presented at the last  
18 meeting. The committee has taken that draft and we're  
19 not intending it to be a final draft at this meeting.  
20 What we're trying to do is gather more input, because  
21 previously we just -- we introduced it and brought it  
22 back to committee. We refined it, but we're not at the  
23 point of making a recommendation. But we do want  
24 discussion of that so that we can come up with a final  
25 recommendation for the next meeting. So there is an

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1 updated draft in the book, and that is something that,  
2 certainly, we would be happy to receive public comment  
3 on and Board discussion on.

4 The materials review procedures, I want to  
5 just update and discuss the revised material procedures  
6 that -- that have been proposed and what we are  
7 utilizing. They have become more of a finalized  
8 procedural policy. And so there's a document in there  
9 that kind of revises that, and hopefully we'll be able  
10 to vote so that we all have an understanding of how that  
11 procedure works.

12 And I'm not sure there's an action item on  
13 extraction methods under the agenda, and I'm not sure,  
14 Jim, what -- because I was not present at that phone  
15 call, because my father was in the hospital.

16 CHAIRPERSON RIDDLE: Yeah.

17 MS. KOENIG: So I know you had to make that --

18 CHAIRPERSON RIDDLE: Right. And that was a  
19 separate work plan item, but my understanding -- now,  
20 that is imbedded in your synthetic versus nonsynthetic  
21 draft.

22 MS. KOENIG: Correct.

23 CHAIRPERSON RIDDLE: So yeah.

24 MS. KOENIG: Okay.

25 CHAIRPERSON RIDDLE: Uh-huh. Okay.

1 MS. KOENIG: And then finally, what we  
2 mentioned earlier with Andrea, there is a document for  
3 the internal workings of Sunset procedures --

4 CHAIRPERSON RIDDLE: Yeah.

5 MS. KOENIG: -- and that's not on that. But  
6 we can pull that in, since we thought to put that on  
7 that line item, I guess. I thought it was there, but it  
8 appears not to be. It was on -- it was something that  
9 you could open up off the website. So I know --

10 CHAIRPERSON RIDDLE: Oh, no, it's there. It's  
11 just -- it's the first item right after your name.

12 MS. KOENIG: Oh, okay. All right.

13 CHAIRPERSON RIDDLE: Yeah.

14 MS. KOENIG: Because -- all right.

15 CHAIRPERSON RIDDLE: Yeah.

16 MS. KOENIG: Oh, yeah.

17 CHAIRPERSON RIDDLE: They've got that in bold  
18 twice, so --

19 MS. KOENIG: Okay. So that --

20 CHAIRPERSON RIDDLE: -- it's confusing.

21 MS. KOENIG: Yeah. So that's why it confused  
22 me. So the Sunset document is there and that --

23 CHAIRPERSON RIDDLE: Okay.

24 MS. KOENIG: -- is the one we just discussed  
25 earlier. Thanks.

1                   CHAIRPERSON RIDDLE: Yeah, uh-huh. Okay. And  
2 before we move to Livestock, I'm going to hit rewind  
3 even further, because I realize that after the approval  
4 of the October minutes, we were supposed to review  
5 Executive Committee conference call minutes, and we do  
6 not approve those as a full Board. Those are approved  
7 by the Executive Committee at the next meeting. And  
8 we're kind of behind in those being presented back to  
9 the Executive Committee, and them being approved and  
10 posted, and partially because of Katherine Benham's  
11 injury. And for those of you who don't know, at the end  
12 of January, Katherine slipped on the ice here in D.C.  
13 and broke her ankle badly and is still in a waist-high  
14 cast. So she's been losing more than a few minutes.  
15 She's been -- that was a joke.

16                   MR. O'RELL: For the record.

17                   CHAIRPERSON RIDDLE: For the record, that was  
18 a joke. No laughter. So anyway, there really -- there  
19 aren't any in the meeting book, previously. There  
20 usually are Executive Committee minutes in the meeting  
21 book, but we are behind in the review and approval. But  
22 I did just want to mention it for the record. And  
23 Katherine's injury had a lot to do with that. So okay,  
24 moving on now to Livestock. George.

25                   MR. SIEMON: Okay. The discussion I had is

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1 really our work plan -- and just to show the things  
2 we're working on. The first is apiculture, which Nancy  
3 Ostiguy is the one leading that, and so really it's just  
4 on our work plan for the year. So there's really not  
5 much news there.

6 The dairy replacement rule change was in  
7 relationship to the directives that we had about the  
8 antibiotics, and we put forward again our replacement  
9 clause that we had already recommended, asking that to  
10 be incorporated into the -- the directive about the  
11 antibiotics, but there's no -- that's really in the --  
12 we have not -- back out of the Department yet, so  
13 there's been no action on that.

14 The third thing is Aquatic Animals Task Force,  
15 which I'm going to ask Arthur to give us the best update  
16 on that. It's in the Department now.

17 CHAIRPERSON RIDDLE: And if you'd identify  
18 yourself for the record, Arthur.

19 MR. NEAL: For the record,  
20 Arthur Neal, the National Organic Program. On January  
21 the 24th, 2005, the National Organics Program released  
22 and called for a nomination for an Aquatic Animals Task  
23 Force. That task force would be comprised of 24  
24 individuals. That task force would also be split into  
25 two working groups, one for aquaculture, and another

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1 working group for wild caught. As of today -- well, on  
2 Wednesday, January 23rd, the nomination period closed.

3 CHAIRPERSON RIDDLE: February, February.

4 MR. NEAL: February 23rd, and I apologize --  
5 the nomination period closed, and the Department, at  
6 this time, has already received 16 formal nominations  
7 for the Aquatic Animals Task Force. However, we do  
8 acknowledge the fact that because this call for  
9 nominations stated that nominations had to be mailed in,  
10 there could still be some nominations coming in through  
11 the mail, so we are waiting about -- we're still waiting  
12 for a few more nominations to come in, that we are aware  
13 of, through the mail, before we give it to the Livestock  
14 Committee and begin working with them on finalizing the  
15 process in terms of -- the inner workings of the working  
16 group and contacting the new people who have been  
17 nominated to let them know whether or not they have been  
18 selected for the task force. That's the update on the  
19 Aquatic Animals Task Force in a nutshell.

20 CHAIRPERSON RIDDLE: Yeah, Andrea.

21 MS. CAROE: Arthur, what happens if you don't  
22 receive any more?

23 MR. NEAL: That is something that we'll have  
24 to talk about after we've received what we think are the  
25 last of the nominations. There are a couple of options;

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1 to call for more nominations; or you may go with the  
2 nominations that you have; or you decide that there's  
3 not enough interest in that area and you hold off until  
4 you get more interest. We have to talk about this after  
5 the fact.

6 MR. SIEMON: And of course, we have the  
7 members from the Board, as well, who will be on that  
8 task force. Okay, the fourth discussion item is the  
9 Sunset material review and you know, as was said  
10 earlier, these are not necessary recommendations. We  
11 think these things ought to go off the list. They're  
12 recommendations to be looked at first and foremost. And  
13 so in our discussions, we've identified oxytocin and  
14 ivermectin as things we'd like to put at the top of the  
15 list for reviews. But again, that's just the reviews  
16 and not anything like a recommendation. So that's the  
17 discussion items.

18 CHAIRPERSON RIDDLE: Yeah, George, before you  
19 move on, the first thing you mentioned was the  
20 apiculture, the beekeeping standards, and those -- you  
21 know, we did have a task force that submitted a report  
22 that was accepted by the Board, and that is in the  
23 meeting book and was posted again on the website, and it  
24 did generate some comments. And I just want to  
25 acknowledge that comments were received and those will

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1 be catalogued and could be considered by the Board. And  
2 you know, I'd really like Nancy to be here, since she is  
3 an apiculture expert. But if the Livestock Committee  
4 would keep that on your work plan, and to consider the  
5 comments that came in this round, before any further  
6 action and you know, for the Livestock Committee to feel  
7 free, I guess, to incorporate those comments into a  
8 draft recommendation that goes beyond the task force  
9 report in the coming months. And then if there are  
10 going to be, you know, proposed rules, of course, those  
11 would go out for a whole other round of public comments  
12 before there'd ever be final rules. But I did want to  
13 acknowledge that since this was --

14 MR. SIEMON: And what tab is that --

15 CHAIRPERSON RIDDLE: Well --

16 MR. SIEMON: I can't -- right now.

17 CHAIRPERSON RIDDLE: Well, it was definitely  
18 active on the website, so I assume it was in apiculture,  
19 right there after number five, the second tab down, and  
20 it's the October 16, 2001 Apiculture Task Force report.  
21 So we did receive public comments and those will be --  
22 but it won't be lost just because we aren't taking  
23 action at this time. They will be sent to the committee  
24 for further action, okay?

25 MR. SIEMON: Yeah.



1                   CHAIRPERSON RIDDLE: So just keep it on the  
2 work plan and --

3                   MR. SIEMON: Okay.

4                   CHAIRPERSON RIDDLE: All right.

5                   MR. SIEMON: And then tomorrow, the action  
6 items, we have -- two of them are clarifying -- I would  
7 call clarifying, where we're using the question and  
8 answer format. You know, the different one is to deal  
9 with the issue that came up about calcium carbonate in  
10 livestock feed, and we're proposing a question and  
11 answering format to answer that. The other two is the  
12 proteinated chelate, which has been in the TAP review  
13 process, that we decided to go ahead and to allow its  
14 continued use, but we developed a series of questions to  
15 clarify that what is not -- what form of it would not be  
16 allowed, and that's in the book as well. So those are  
17 two different things which is on that tab.

18                   And the other two, Mike Lacy will be  
19 presenting tomorrow about the DL-Methionine, which is in  
20 petition to address the extension -- the Sunset that --  
21 the time limit on it which is to fall '05, to extend  
22 that. So that's a vote that we're going to take  
23 tomorrow. And the last one Hugh Karreman will be  
24 presenting about the pasture policy, where we were asked  
25 to take another look at the 2001 recommendation, and

1 we've made some modifications to that that's going to be  
2 voted on tomorrow as well.

3 CHAIRPERSON RIDDLE: Any comments, questions  
4 for George on any of these items?

5 \*\*\*

6 [No response]

7 \*\*\*

8 CHAIRPERSON RIDDLE: Okay, seeing none --

9 MR. SIEMON: Okay, while I got the floor --

10 CHAIRPERSON RIDDLE: Yes, George.

11 MR. SIEMON: -- we've got coffee. No,  
12 seriously, can we deliver the coffee here?

13 CHAIRPERSON RIDDLE: Yeah. And I think Hugh  
14 actually has a question, though, so -- and Kim does,  
15 too. All right.

16 MR. KARREMAN: I'm just wondering, would the  
17 -- back to the ivermectin, is -- I know it's just going  
18 to be kind of reviewed scientifically and whatnot,  
19 right? But, you know, as a priority thing. At what  
20 point could there be some kind of language saying that,  
21 if ivermectin -- ivermectin comes off, but kind of  
22 couple that with the moxidectin that was already  
23 allowed, and like kind of Sunset one as the other one as  
24 the other one becomes allowed. Is that possible to do,  
25 so there's no cap?

1                   MR. SIEMON: That's a real good question.  
2                   That's definitely the intent of our reconsidering. It's  
3                   based on moxidectin, so -- coming in. So somewhere, I  
4                   hope moxidectin's through by -- by that time period, you  
5                   know. It shouldn't -- we hope it won't run into the  
6                   same problems it ran into at other places.

7                   CHAIRPERSON RIDDLE: Yeah, maybe Arthur could  
8                   just comment on where, you know, that moxidectin is in  
9                   the pipeline.

10                  MR. NEAL: By that time frame, we're hoping  
11                  the same thing. We'll just put --

12                  MS. CAUGHLAN: We can't hear you for some  
13                  reason.

14                  CHAIRPERSON RIDDLE: Yeah, that one's not --

15                  MS. CAUGHLAN: I don't think that's --

16                  MR. NEAL: Can you hear me now?

17                  CHAIRPERSON RIDDLE: Yeah, you have to be  
18                  really close to that one.

19                  MR. NEAL: Hopefully, by this time -- way  
20                  before that time frame it should be in the pipeline.  
21                  It's just that things have gotten clogged up in the  
22                  system due to all the activity going on.

23                  CHAIRPERSON RIDDLE: Okay. And, Kim, you had  
24                  a question or a comment or --

25                  MS. DIETZ: Just a comment. As --

1                   CHAIRPERSON RIDDLE: Well, you'll need to  
2 speak into a mike.

3                   MS. DIETZ: Okay.

4                   CHAIRPERSON RIDDLE: Don't you know the rules?

5                   MS. DIETZ: I get my exercise that way. As  
6 the committee chairs were talking about the National  
7 List, the materials they're recommending for review, if  
8 you could just give the justification as to why you  
9 picked those materials. I know that not all of them  
10 have issues that there are incomplete TAPs or what have  
11 you. Some of them are just industry concerns that we  
12 know are going to be contentious items. So if you name  
13 the material, could you just give us the justification  
14 so we understand why that material was picked?

15                  CHAIRPERSON RIDDLE: Thank you. That's a  
16 really good reminder. Mr. Coffee?

17                  MR. SIEMON: Yeah, we're working on it.

18                  CHAIRPERSON RIDDLE: No, I'm not anxious for  
19 the coffee, it was --

20                  MS. CAROE: Speak for yourself.

21                  CHAIRPERSON RIDDLE: Yeah. But it was --

22                  MR. O'RELL: There was a question asked.

23                  CHAIRPERSON RIDDLE: Yeah, there was a  
24 question asked that related the ivermectin and oxytocin,  
25 that you anticipate at least recommending to the

1       Livestock Committee that they be priority reviews, and  
2       if you could just give a very brief rationale for why  
3       identify those two substances.

4               MR. SIEMON: Well, ivermectin is because of  
5       the moxidectin. We feel there is a more appropriate one  
6       for livestock that it can be used on, both in FDA  
7       approval as well in the technical review we had. So  
8       that one's fairly clear, we think there's a better  
9       alternative. Synthetic as it is, it's a better  
10      alternative.

11             On the oxytocin, that's just a matter of the  
12      industry growing and changing and learning to live more  
13      without the -- that, too, it's a hormone. One of the  
14      concerns the consumer has is hormones, so that one might  
15      be more debatable. But that -- things have changed a  
16      lot since 1995 in the holistic livestock care. So  
17      they're all going to be reviewed.

18             CHAIRPERSON RIDDLE: Right.

19             MR. SIEMON: These are the priorities. Well,  
20      I know --

21             CHAIRPERSON RIDDLE: For an early review.

22             MR. SIEMON: Early.

23             CHAIRPERSON RIDDLE: Uh-huh. Yeah. And my  
24      understanding of the Sunset process is, if no one  
25      challenges a substance, it would be renewed without a

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1 full review.

2 MS. KOENIG: No, no.

3 CHAIRPERSON RIDDLE: Yeah?

4 MS. KOENIG: The -- you know, the wording and  
5 the understanding within the document is that review can  
6 take a number of different forms, okay? A review can be  
7 that the committees have -- have looked at the list of  
8 considered public comment. If there's no public  
9 comment, they can use old TAP reviews if they feel that  
10 that's necessary. So there's going to be committee  
11 review of everything. Whether there will be an  
12 additional technical request is the distinction. And so  
13 the committees should identify those items that they  
14 feel need additional technical information on so that  
15 they can conduct the review within the committee. If  
16 you feel that -- if you look at the old TAPs and you  
17 feel that -- and you look at the public comment, you  
18 know, but at this point, you're not going to have public  
19 comment. But if you look at the old TAPs and you feel  
20 like you know some new information that's now available,  
21 or new techniques, that is a reason to perhaps get more  
22 additional technical information. But if you feel that  
23 it's adequate, you may not need that additional  
24 technical information. Again, if you look at the Sunset  
25 document -- and I think that philosophy applies even to

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1       this process -- if -- you know, as stated in there,  
2       these substances have been hopefully reviewed to some  
3       degree. Certainly, the ones more recently, they've been  
4       under more scrutiny and better quality TAPs. So we  
5       anticipate that if there are ones that should be  
6       highlighted, are those probably that were put on many,  
7       many years ago. That's probably where the most changes  
8       have occurred. But there should be a technical reason.  
9       It could be inadequate technical information that you  
10      have available. But don't forget, you can use the  
11      technical information that has already been conducted.  
12      So -- but everything will be reviewed. It's to what  
13      degree do we seek additional technical information.

14               CHAIRPERSON RIDDLE: Okay, thanks for that  
15      correction. I was using review just to mean the  
16      additional scientific review by the contractor. So  
17      thanks for explaining that. Hugh?

18               MR. KARREMAN: As far as when you're reviewing  
19      other materials for Sunset and you're saying, George,  
20      you know, there's alternative things to various  
21      substances now in the last 10 years. Will they be  
22      brought forth, documented, kind of like I see -- it's  
23      kind of like Methionine extension. There's other --  
24      there's research going on to look for alternatives to  
25      Methionine. Will that be the same for oxytocin and

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1 other things like that?

2 CHAIRPERSON RIDDLE: Would you like to respond  
3 or -- Rose?

4 MS. KOENIG: Well, certainly -- you know, a  
5 lot of it again is going to be up to the committee. The  
6 optimal way of doing a review, you know, is to utilize  
7 the TAP contractor. However, committees may feel like  
8 they can gather all the information they need on a  
9 substance, because they have that ability within their  
10 committees to do so. You know, the idea is that, you  
11 know, you should bring in your own resources, if you  
12 have the expertise or resources, and you certainly  
13 should utilize the technical review panels or a  
14 contractor, if that is necessary. So that's really what  
15 the committees need to determine, you know, when they're  
16 reviewing each of those substances. But what we're  
17 saying for those that you know you want to go through  
18 the TAP contractor because you've identified that there  
19 really was a very inadequate TAP, you don't feel like  
20 you have the expertise on your committee to get the  
21 information, those are the ones that -- to me are the  
22 ones that you highlight and those are the ones that we  
23 want to, to the best of our ability, gather more  
24 technical information, and we do not want to wait, you  
25 know, until we're into this time crunch to do so.

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1                   MR. SIEMON: With oxytocin, for sure you're  
2 going to have to provide what's new. What's the  
3 alternative? So you're going to have provide some proof  
4 of the new alternatives, especially with that one.

5                   MR. KARREMAN: Actually, I don't think there  
6 was ever a TAP review done on that one, so it'll be good  
7 to see. Because all TAP reviews have to show minimal  
8 alternatives, anyway, right, in a complete TAP. So  
9 that'll take care of itself, I think.

10                  CHAIRPERSON RIDDLE: Um-hum.

11                  MS. KOENIG: And one other thing -- the other  
12 thing is that, synthetics that are listed, you know,  
13 because not all synthetics come on the list at the same  
14 time, and this is the case of the oxy -- what is it,  
15 oxy --

16                  CHAIRPERSON RIDDLE: Tocin.

17                  MR. O'RELL: Tocin.

18                  MS. KOENIG: Tocin. I was thinking of some  
19 other -- not the drug -- anyway -- anyway --

20                  UNIDENTIFIED SPEAKER: Oxycontin?

21                  MS. KOENIG: Yeah, Oxycontin. Well, if  
22 there's -- organics of the list, and I'm not saying this  
23 is the case with this material, but there may be  
24 something that was added that is a synthetic that the  
25 committee decides is more of -- that something that was

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1 added previous. There now is another alternative that  
2 is on the list that was not considered. So those are  
3 the things that are considered that could be --  
4 substitutes and alternatives. So that -- those are  
5 areas where even substances on the list may be  
6 justification to pull something else off, because now  
7 you have a better synthetic --

8 CHAIRPERSON RIDDLE: Okay, anything else  
9 before we go to Handling?

10 \*\*\*

11 [No response]

12 \*\*\*

13 CHAIRPERSON RIDDLE: Well then, Kevin,  
14 Handling.

15 MR. O'RELL: Sure. For the Handling Committee  
16 discussion items, the first is the Pet Food Task Force.  
17 I'm going to defer to Arthur Neal. He's going to give  
18 us an update on that after the Federal Register notice.

19 MR. NEAL: January 24 -- committee went out  
20 and called the nominations for the Pet Food Task Force.  
21 It would comprised of 12 individuals and this task force  
22 -- with the purpose of developing labeling standards for  
23 pet food, organic pet food. The nomination period  
24 closed on February 23, last week -- nominations, seven  
25 formal nominations for the Pet Food Task Force. We hope

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1       that there may be more nominations coming through the  
2       mail. We're going to wait a couple of weeks to make  
3       sure that we receive all of the Pet Food nominations and  
4       maybe move on to -- get with the Handling Committee to  
5       discuss our next step with respect to formation of that  
6       task force.

7               MR. O'RELL: Thank you, Arthur. Any questions  
8       for Arthur on the Pet Food Task Force?

9               CHAIRPERSON RIDDLE: It's the same thing as  
10       the aquaculture -- I think the Federal Register notice  
11       had up to 12 --

12              MR. NEAL: Right.

13              CHAIRPERSON RIDDLE: -- on this.

14              MR. NEAL: Right. And the options -- I mean,  
15       the good options -- just because you didn't meet 12 does  
16       not mean you still can't have a task force. But that's  
17       something we will discuss once we know for certain how  
18       many nominations we have. And if we need to call for  
19       one nomination, we can definitely do that.

20              CHAIRPERSON RIDDLE: So each of these  
21       committees will need to work with you to come up with a  
22       plan to either seat the task forces from the nominees  
23       that have been submitted, plus the Board members that  
24       are interested, or decide whether it's best to go out  
25       with another call for nominees, correct?

1                   MR. NEAL: Right.

2                   CHAIRPERSON RIDDLE: Okay.

3                   MR. NEAL: I don't think it's going to be that  
4 big of an issue. Pete Jones is actually going to be the  
5 individual who's going to work with both task forces.  
6 And the options are -- I think are well enough that they  
7 can be implemented in a fairly productive fashion.

8                   CHAIRPERSON RIDDLE: Yeah, Hugh?

9                   MR. KARREMAN: For both of those task forces,  
10 are there -- have they already -- are there certain  
11 charges that they need to look into or any questions  
12 that have been brought up, you know, that they need to  
13 answer, or is it just kind of forming a task force to  
14 have one and --

15                  CHAIRPERSON RIDDLE: The -- go ahead, Arthur.

16                  MR. NEAL: With respect to the Aquatic Animals  
17 Task Force, the charge is to develop standards for the  
18 production, handling, and labeling of aquatic -- aquatic  
19 animals and those feed products for aquatic animals.  
20 There's already great talk in the aquatic animal  
21 industry regarding these standards, and I think they're  
22 already drafting standards to apply to the task force,  
23 especially the pet food industry. We haven't heard as  
24 much talk, but we do know there is an interest. And  
25 what we said was a charge for them would be to develop

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1 labeling standards, production labeling standards for  
2 organic pet food. Their charge is probably best -- in  
3 Aquatic Animals Task Force because they've got more to  
4 work with with existing standards, and we already have  
5 talked about it.

6 CHAIRPERSON RIDDLE: Yeah. And I'd like to  
7 point out that, in your meeting book, right after tab  
8 five, the Federal Register is the sub-tab there and that  
9 has the Federal Register notice, you know, asking for  
10 nominees for these task forces, and it does have a  
11 section: what are the task force groups' objectives and  
12 time requirements? So those are summarized there and  
13 they were also contained in the scope document from the  
14 Policy Development Committee from our October meeting as  
15 well. So for the Aquatic Animals Task Force, it's  
16 certainly to work from the prior Aquatic Species Task  
17 Force report --

18 MS. CAUGHLAN: Right.

19 CHAIRPERSON RIDDLE: -- as a starting point --

20 MS. CAUGHLAN: Right.

21 CHAIRPERSON RIDDLE: -- to consider all of the  
22 existing information and then -- which did recommend  
23 development of standards for the aquaculture part of it,  
24 but did not recommend standards for the wild fish. But  
25 to start from that page and then see what can be done as

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1 far as developing draft standards to present to the  
2 Board first, and then we would make a recommendation to  
3 the Department.

4 MR. O'RELL: Our second discussion item for  
5 the Handling Committee is the Sunset materials review.  
6 We had a discussion of priorities for materials, and the  
7 result of the discussion, we identified three materials  
8 that we felt were likely to be controversial and  
9 indicated that we needed additional information and we  
10 want to get on these earlier. These three items listed  
11 under 205.605(a), one is colors. We felt that -- the  
12 reason why is we felt that this is a group of materials  
13 that needs a TAP review. There was never a TAP review  
14 done on this previously, and it was not voted on by the  
15 Board prior to being added to the list. The second item  
16 is flavors. Again, a lot of things have changed since  
17 this has gone on the National List. There now are  
18 products that are out there as organic flavors. There's  
19 a lot more that we need to know about the manufacturing  
20 process of some of these items. Some of the flavors out  
21 there might be impacted by 205.605(b) and the lawsuit.  
22 Julie, do you have any additional support on the  
23 flavors?

24 MS. WEISMAN: Yeah, Kevin, I did. I wanted to  
25 agree with you that a lot of the natural flavors is on

1 section A as a category, as a general category, and  
2 that's because they are actually defined in C.F.R. by  
3 the FDA. And as we know, NOP is not allowed to  
4 supercede other -- other rules in the C.F.R. But I do  
5 think that -- and I think it is true that when these  
6 rules were written there were -- there were not --  
7 organic flavors did not exist, so that has to be taken  
8 into consideration. But I would also like to add that  
9 what we call -- what our -- the category of organic  
10 flavors are almost entirely organic, in the 95-percent  
11 category. And so they're -- they may or may not be  
12 alternatives, depending on other matters that are --  
13 that we have to await clarification on with the lawsuit.

14 And then the last thing I wanted to say about  
15 that is that there is going to be discussion during  
16 these meetings during the next few days about the issue  
17 of defining synthetic and nonsynthetic, and I think that  
18 -- that will also have an impact on -- on organic  
19 flavors as they're currently manufactured, being an  
20 adequate alternative to natural flavors.

21 MR. O'RELL: Thank you, Julie. The third item  
22 that the Handling Committee identified was yeast, and  
23 that's surrounding the issue of the agricultural versus  
24 nonagricultural debate that continues today, which leads  
25 us into our third -- third discussion item, which is the

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1 clarification for the definition of agricultural versus  
2 nonag. Just a little background. There is concern that  
3 there are items that are on the National List, under  
4 205.605(a), that have come under question as being  
5 organic or agricultural. And by their placement on  
6 205.605(a), they are considered as nonagricultural. The  
7 Handling Committee has taken up this task of trying to  
8 get clarification for the definition of agricultural and  
9 nonagricultural. We did a lot of looking in from a  
10 historical perspective, that when the Board put together  
11 its first recommendations for the National List back in  
12 1993, there were no legal definitions for agricultural  
13 or nonagricultural.

14 In certain cases, some materials were given to  
15 the Board after being assigned the status of ag versus  
16 nonag by a USDA-funded researcher. Currently we have  
17 definitions for ag and nonag in the rule, and these have  
18 been criticized as being somewhat vague. So the  
19 Handling Committee is continuing to work on this effort,  
20 and we are hoping to define this in simple terms,  
21 looking at its agricultural roots in the definition for  
22 clarification, and we hope to have a formal  
23 recommendation for the full Board at the next meeting,  
24 whenever that is scheduled. Are there any questions on  
25 the discussion items?

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[No response]

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MR. O'RELL: For the Handling Committee we have four action items. All of these were Q and A's that came from the NOP. The first one is the status of albumen in organic wine making. The second one is to provide clarification on a calculation that we use for tea, for tea extract. The third is a question that we need to provide input to the NOP concerning the status of a material, bitter orange, as a natural processing aid. The final one is the retail certification Q and A that as asked of the NOP, and we in turn were asked to provide input concerning this retail certification issue for retail food establishments.

16

I think it's -- it's appropriate to point out that we had a lot of discussion within the Handling Committee regarding the process. These four Q and A's took a lot of time from the Handling Committee and diverted us from some of the other issues that we felt that we had priority to try to get to these. We're hoping that -- maybe questioning the process that we're using today, in terms of all questions going to the NOP and coming back to the NOSB and for us to have to put it to committee and have the -- getting the committee

25

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1       together and hashing out these responses to go back to  
2       the NOP. We're wondering if maybe there isn't another  
3       process we might want to look at, particularly when we  
4       get an executive director on board. And that's our --

5               CHAIRPERSON RIDDLE: Report for now.

6               MR. O'RELL: -- report for now.

7               CHAIRPERSON RIDDLE: Any other questions,  
8       comments, any other committee members' input?

9                               \*\*\*

10      [No response]

11                              \*\*\*

12               CHAIRPERSON RIDDLE: Okay. All right, next is  
13       Crops, and Nancy Ostiguy had already scheduled a -- some  
14       academic dissertation defense and couldn't make it here  
15       today. She will be arriving tonight. And so Rose is on  
16       the Crops Committee and has agreed to provide the report  
17       here.

18               MS. KOENIG: And -- and fortunately, Nancy and  
19       I did not communicate when I found I was going to be  
20       doing this, so I'm going to -- hopefully, I'm  
21       representing what she would say. And then what we could  
22       do tomorrow, if there's something she wants to add, give  
23       her that opportunity if there's -- because of that fact.

24               As far as the Sunset material review, some of  
25       the materials that -- I know that have been identified

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1       that do not have specific categories in OFPA are  
2       potassium bicarbonate, hydrogen peroxide, both for  
3       disease control. So those are two disease control  
4       substances that don't fit into a category.

5               CHAIRPERSON RIDDLE: Oh, okay. So the  
6       rationale would be that they don't fit the OFPA  
7       category. Okay, I just wanted to make sure you're  
8       covering the rationale as well.

9               MS. KOENIG: Yeah.

10              CHAIRPERSON RIDDLE: Thanks.

11              MS. KOENIG: And then there's aquatic plant  
12       extract, liquid fish products, and humic acids. All  
13       have annotations that deal with the extraction  
14       procedures and/or pH adjustments. So that -- that is  
15       something I know that the committee is concerned that we  
16       have consistency with those annotations and we want to  
17       make sure that -- that the annotations, the way that  
18       they were written, and now that we understand how  
19       they're interpreted, if they really reflect what the  
20       original intention of the annotation was, because they  
21       have been -- it's something that has come back to, you  
22       know -- you know, when there was -- they've just been  
23       identified, but there's not a clear understanding that  
24       those annotations really represent what -- what the  
25       intention of the -- what their intention was, I guess,

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1       when they were made. So again, that -- those were ones  
2       that I discussed, that these are annotation kind of  
3       issues and I'm not sure if they're necessarily best  
4       dealt with there in Sunset, but I'm laying them out.  
5       Also, peracetic acid for fire blight control doesn't  
6       really fit into the OFPA category, either.

7               One area that the committee feels is --  
8       there's a -- mulches are listed, newspaper or other  
9       recycled -- other recycled paper. There's a -- a type  
10      of newsprint is placed on that within the list, and we  
11      feel that there is the processes that are now done for  
12      paper have changed and the inks have changed, that  
13      that's something that we need to get more -- a TAP on so  
14      that we understand kind of that -- what's on there for  
15      mulches. I know that's one of the ones that have been  
16      identified for a technical review. So those are the  
17      ones that I am aware of.

18             As far as the draft recommendation for  
19      hydroponics, I know that was something that Owusu had  
20      committed to work on. There was an original draft back  
21      in 2001 or 2002 that the committee looked at that he had  
22      developed. And so that is something that, as far as I  
23      know -- and again, we can check with Nancy, but there  
24      has been no progress on that. So that's something that  
25      the committee must go forth and work on if standards are

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1       needed. I mean, maybe the first discussion is just  
2       really something that's needed. I'm not understanding  
3       -- because we seem to be having this on every single  
4       agenda. It's not getting done, but I don't -- I'm not  
5       sure what's going on in the industry as far as how  
6       certifiers are -- and that may be the best way to go  
7       about it, if it's not -- you know, is it or is it not an  
8       issue? Is it in an area that standards need to be  
9       developed? We certainly don't want to do committee work  
10      if there are operations being certified. We need to  
11      know that, currently, if the present standards are  
12      covering hydroponics.

13               And then I'm not going to go over the  
14      temporary variance for research guidance because Dave  
15      has, and just so you know that it's going to be a  
16      collaborative effort between, I guess, Livestock and  
17      Crops as far as developing those guidances.

18               And now, as far as the action items for the  
19      Crops Committee, I just wanted to point out that -- that  
20      -- I'm now optimistic. We have members on the new Crops  
21      Committee, because of the new members that -- we'll be  
22      able to get quorum. Unfortunately, on the drafts and  
23      the materials that are here, we didn't have quorum,  
24      although the votes are placed on that so that we could  
25      get the discussion item on the agenda. And there are

1 drafts, but the Crops Committee had difficulty getting  
2 together on that. So that's just a note. So when it  
3 comes for discussion of these items tomorrow, there may  
4 be modifications to those recommendations, and we  
5 welcome that, because we don't feel that we really had  
6 adequate input in the determination of some of these  
7 things for Crops. So basically, the soy protein isolate  
8 technical TAP review, we're considering that for a vote;  
9 ammonium bicarbonate and ferric phosphate. So those are  
10 three materials that are scheduled to be considered --  
11 considering the petition to add it to the National List.

12 There's the use of compost and compost tea.  
13 What was on the web, from what I gathered when I was  
14 asked to do this -- just like the old Compost Task Force  
15 reports. And I think that the idea was to have a  
16 recommendation to accept those. We'll have to have  
17 Nancy on that one, because I'm not quite sure.

18 CHAIRPERSON RIDDLE: Yeah, as I recall, it is  
19 to merge those into a recommendation.

20 MS. KOENIG: Okay, okay.

21 CHAIRPERSON RIDDLE: Yeah.

22 MS. KOENIG: And then guidance on commercial  
23 availability. There's a draft that will be discussed  
24 and perhaps voted on. Maintaining or improving natural  
25 resources, there's a draft for consideration. And then

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1       there also was a question and answer on waxed boxes, to  
2       provide NOP input on the status of the waxed boxes for  
3       produce.

4               MS. CAUGHLAN:   And this Q and A -- you  
5       mentioned the Q and A on compost?   There was two  
6       separate --

7               CHAIRPERSON RIDDLE:   Yeah, it would be part of  
8       that whole --

9               MS. CAUGHLAN:   Part of it.

10              CHAIRPERSON RIDDLE:   Yeah.

11              MS. CAUGHLAN:   Okay.

12              CHAIRPERSON RIDDLE:   Yeah, the question is  
13       about the -- the agenda says Q and A on compost, and  
14       that would be addressed at the same time of merging the  
15       compost and compost tea reports into a recommendation.  
16       Hugh.

17              MR. KARREMAN:   Just one question regarding the  
18       newspaper.   You said that's up for Sunsetting because of  
19       new printing practices or whatever?   Is that --

20              MS. KOENIG:   Well, when I say -- again,  
21       everything is -- everything that was on the list as of  
22       2002 is up for Sunset.

23              UNIDENTIFIED SPEAKER:   Automatically.

24              MS. KOENIG:   The newsprint has been identified  
25       by the committee, that specific item that -- again, that

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1 we are aware that there has been technical changes in  
2 the printing industry, and we feel that those were not  
3 covered in the original TAP.

4 MR. KARREMAN: Would any action on a crop use  
5 of newspaper affect farmers using it as livestock  
6 bedding? Would that have any effect? If you were to  
7 Sunset it, because, definitely, farmers chop newspaper  
8 for bedding and I'm not sure if that would affect  
9 livestock from a crops perspective. I just wondered.

10 MS. CAUGHLAN: Do they consume it?

11 MR. KARREMAN: They could. They shouldn't,  
12 really, but -- I mean, not normally if they're normally  
13 fed, no.

14 MS. KOENIG: Well, yeah. I mean --

15 MR. KARREMAN: Just --

16 MS. KOENIG: -- it's not on the livestock list  
17 and it's been deemed synthetic.

18 MR. KARREMAN: So it would affect the  
19 livestock?

20 MS. CAROE: Well, it shouldn't be part of the  
21 cropping system, period, so --

22 MR. KARREMAN: Just wondering.

23 CHAIRPERSON RIDDLE: Well --

24 MS. KOENIG: I would -- I think -- the best  
25 answer to that is that it's not -- it's on the list



1 under crops because it was determined to be a synthetic  
2 that needed to be added. If it -- if it's being  
3 utilized in livestock operations, it needs to be  
4 petitioned for that use because it's -- not that I'm  
5 aware on that livestock.

6 MR. KARREMAN: I mean, it's a great way to  
7 recycle newspaper.

8 MS. KOENIG: Right. So, you know, within in  
9 the TAP that -- again, we cannot add something through  
10 the Sunset process that's not on the list already.  
11 Okay. But if we're going to ask the contractors for a  
12 technical review, we could ask them to increase the  
13 scope to look at that utilization, although we would not  
14 be adding it at that time during Sunset, but it would  
15 provide us with technical information as we're going  
16 through it -- if it was to be petitioned, that they  
17 would already have a base of information.

18 MS. CAUGHLAN: Good.

19 CHAIRPERSON RIDDLE: It is on the list,  
20 though, twice, once for mulch and then once as compost  
21 feed stocks. So in the compost feed stock listing is  
22 where it would directly related to livestock production  
23 often. And that's how it gets in the compost, as being  
24 first used as livestock bedding and then goes into the  
25 -- into the compost stream. So it's certainly something

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1       that could be addressed, like you say, in the review  
2       process, it's use there.

3               MR. SIEMON:  It's actually -- on living  
4       conditions, 239.(a)(3), where it says, "If the bedding  
5       is typically consumed by the animal species, it must  
6       comply with the feed requirements."  So then you get a  
7       debate.  If this is typically --

8               CHAIRPERSON RIDDLE:  Consumed which --

9               MR. KARREMAN:  No, it's not.

10              CHAIRPERSON RIDDLE:  No, uh-uh.

11              MR. KARREMAN:  I mean, that's not  
12       impossible --

13              MR. SIEMON:  Well then -- then it's allowed.

14              MR. KARREMAN:  You know --

15              CHAIRPERSON RIDDLE:  Right.

16              MR. SIEMON:  Then it's allowed.

17              MR. KARREMAN:  Then it's allowed, good.

18              CHAIRPERSON RIDDLE:  Um-hum.

19              MR. KARREMAN:  Good.

20              CHAIRPERSON RIDDLE:  Um-hum.  But to go into  
21       compost, it is regulated.  There is a listing that  
22       prohibits glossier colored ink.  It allows it otherwise.  
23       So it's just something to be aware of as we move  
24       forward.  I think it's a good point.

25              MS. KOENIG:  One of the things is that there's

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1 a lot of soy-based inks now --

2 CHAIRPERSON RIDDLE: Oh, you're on the  
3 newspaper.

4 MS. KOENIG: -- so that really is -- those  
5 were not common at -- we believe those were not commonly  
6 used when it was placed on there, so we would want to  
7 know, you know, how much use soy-based inks have, those  
8 types of things. Because, you know, the ink was  
9 specifically placed out of the annotation.

10 CHAIRPERSON RIDDLE: Andrea?

11 MS. CAROE: So, Rose, this is one of those  
12 situations, then, where you're actually looking at  
13 pulling it off the list and then putting it on because  
14 you're changing the annotation? Because if you're  
15 interested in putting this on the list without colored  
16 inks, if there's soy-based inks that are used and we  
17 feel that that's consistent and organic -- should be  
18 able to use that, then this would be one of those  
19 situations where you're going to -- you're going to  
20 propose removing newspaper off the list for repetition  
21 without the annotation?

22 MS. KOENIG: Right now what the committee  
23 would be doing is looking at it as it exists for the  
24 Sunset process, and determining if that -- the way it  
25 appears is adequate for -- for what currently is out

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1       there. That's what I am saying. On some of these it's  
2       not clear and that's what -- we have to have further  
3       discussion, I think, with NOP as far as how we can go in  
4       determining, can we put it back on during the materials  
5       Sunset process without that annotation? I don't know.  
6       Those are the kind of instances and peculiarities, I  
7       think, that we're going to come forth on some of these.

8               MS. CAROE: But if you're having a review done  
9       to extend its potential, it would be best to have two or  
10      three other questions addressed at the same time. We've  
11      done that in the past.

12             MS. KOENIG: I think those are ones that were  
13      placed on and there probably wasn't adequate  
14      information. There was an annotation there for a  
15      reason. We feel that we need to reexamine, because,  
16      technically, we know things have changed and that that  
17      -- the way it appears may not be sufficient and it may  
18      not be useful.

19             MS. CAROE: Well, I absolutely understand the  
20      logic you're presenting. It was purely a procedural  
21      question --

22             MS. KOENIG: Yeah.

23             MS. CAROE: -- based on your earlier comments  
24      that you made.

25             MS. KOENIG: Um-hum.

1 CHAIRPERSON RIDDLE: And I think, you know, if  
2 we had the Federal Register notice for Sunset out, we'd  
3 have a lot better understanding of what the rules of the  
4 game are and what can happen and what cannot. We've  
5 seen, you know, drafts, we've had input on drafts, but  
6 until it's posted in the Federal Register, we don't know  
7 the final word and what exactly can happen with an  
8 annotation or not during this review process. Anything  
9 else for Rose? Yeah. Or no, that's not a hand, that's  
10 a book.

11 \* \* \*

12 [No response]

13 \* \* \*

14 CHAIRPERSON RIDDLE: All right. Well, we  
15 actually --

16 MR. SIEMON: Yeah, what are we going to do?

17 CHAIRPERSON RIDDLE: We could go to recess --

18 MR. SIEMON: All right.

19 CHAIRPERSON RIDDLE: -- but --

20 MS. CAROE: But --

21 CHAIRPERSON RIDDLE: -- I think we have a lot  
22 to accomplish here in the next few days, and Barbara has  
23 offered to begin the NOP update this afternoon and  
24 address -- especially some of the issues that have been  
25 raised during our discussions so far this afternoon,

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1 executive director, collaboration, some of those things.  
2 So that could help, you know, give us more time tomorrow  
3 for the public input session. So if Barbara and Rick  
4 are willing to -- yeah.

5 MR. O'RELL: Jim, just a point -- and  
6 Barbara --

7 UNIDENTIFIED SPEAKER 1: That's not on. It's  
8 not on.

9 UNIDENTIFIED SPEAKER 2: It's never on.

10 CHAIRPERSON RIDDLE: Huh?

11 UNIDENTIFIED SPEAKER: It hasn't been on.

12 MR. O'RELL: It's never on. They're saying  
13 it's never on.

14 UNIDENTIFIED SPEAKER 2: It hasn't been on the  
15 whole afternoon. There it is.

16 UNIDENTIFIED SPEAKER: Okay.

17 CHAIRPERSON RIDDLE: There, it's on.

18 MR. O'RELL: Just a point. I do know, in the  
19 agenda, a number of people are coming specifically  
20 tomorrow to hear the NOP --

21 MS. CAUGHLAN: To hear NOP's --

22 MR. O'RELL: -- update.

23 MS. CAROE: That's right.

24 CHAIRPERSON RIDDLE: And what is the concern  
25 if we -- go ahead, Barbara.

1 MS. ROBINSON: Well --

2 MR. SIEMON: Who are you, again?

3 MS. ROBINSON: For the record, Barbara  
4 Robinson.

5 CHAIRPERSON RIDDLE: You have to be close to  
6 those type of mikes it seems, so --

7 MS. CAROE: It's terribly hard to hear.

8 MS. ROBINSON: Well, most of the things that  
9 you brought up today I can answer them fairly  
10 straightforwardly. I suspect what you're really talking  
11 about in a little more depth, Kevin, might be related to  
12 the court case, and I can -- we can do that now or we  
13 can wait until tomorrow. That's purely up to you. You  
14 can break into your committees, because I know you do  
15 have a lot of work to do. But I thought I could at  
16 least give you the update on the things that you've  
17 raised in your committees, and then you can actually  
18 tell folks yourself where they are. Let me get to my  
19 notes real quick.

20 As you know, since last fall we promised --  
21 since last summer we promised that absolutely everything  
22 we did, as soon as we got it cleared through the  
23 Department, we would be giving you a 24-hour heads-up  
24 and then it would go up on our website, and I think  
25 you'll agree that that's exactly what we've done. We've

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1       pretty much given you guys everything that we've been  
2       working on. There are two things that we have been  
3       working on that we have not given you. One is the  
4       collaboration docket -- document. It's not a docket.  
5       It will not be published in the Federal Register. And  
6       the second is the USDA response to the NOSB response to  
7       the four issues, and those related to antibiotics, fish  
8       meal, inerts, and the scope of coverage of the NOP  
9       regulation. Every week I ask for the status on these  
10      and every week I am told that they are still in a  
11      clearance process. They are not in our office.

12               Now, you have seen a draft of the  
13      collaboration document. I did forward that to you  
14      through e-mail. And when it comes out of clearance, it  
15      is not going to look drastically different, because it's  
16      essentially an agreement between you, the NOSB, and we,  
17      the NOP, as to how we'll work together on issues, and  
18      it's what you saw in that draft document. It's kind of  
19      a, you know, let's categorize the issues and you know,  
20      from -- it doesn't say major or minor, but it kind of  
21      lays out that format of when would we propose something  
22      to you and get an answer to the thing.

23               In the meantime, we have published in the  
24      Federal Register a guidance docket, which had we had  
25      published perhaps before last April, we might not have

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1       gone through what we went through last April. In any  
2       event, that docket is out there. It does call for  
3       comments by the public, and I believe the comment date  
4       extends until early April.

5               UNIDENTIFIED SPEAKER: April 4.

6               MS. ROBINSON: April what?

7               UNIDENTIFIED SPEAKER: The 4th.

8               CHAIRPERSON RIDDLE: The 4th.

9               MS. ROBINSON: 4. That's early. And so we  
10       are very much looking forward to that. That is a formal  
11       proposal of how USDA would issue guidance about  
12       regulations. But again, it would be -- that also would  
13       be an interact process. In other words, we would  
14       propose through the Federal Register, you know, here's  
15       what we're thinking about issuing guidance on and then  
16       we would take comment on it. Likewise, the public may  
17       also initiate that process and ask us to issue a  
18       guidance. In any event, I do apologize, because we  
19       don't have those two documents that we worked so hard to  
20       get done.

21               On the USDA response to the Board statement,  
22       you also will not see anything that is a surprise to  
23       you. In other words, that document says what we said  
24       last October, that we concur, and the one place where I  
25       believe we said you asked us to issue a technical

1 correction, we said -- and we said it at the meeting as  
2 well, verbally, that we would have to go through  
3 rulemaking and that is the dairy replacement provision  
4 of the reg.

5 On the executive director, we have received  
6 feedback back from the legal folks. I am working on the  
7 draft. I thought -- I was really hoping to have a draft  
8 position announcement to bring here to at least hand out  
9 to all the Board members so you could take a look at it,  
10 and we just have been overtaken by events with the court  
11 case. We do have -- like I said, we do have a draft. I  
12 need to polish it up a little because I've written all  
13 over it. But it will incorporate, I believe, all of the  
14 things that you want in -- that was in the document that  
15 Jim and Dave forwarded to me. And so I'm hoping that,  
16 you know, later this spring we'll actually be able to  
17 get a job announcement up. As I may have told you  
18 before, we will do this electronically, but we will post  
19 it on our website when it is available and we'll tell  
20 people where to go. We don't control that process.  
21 It's done through -- you can access USAJOBS and that  
22 sort of thing. But you'll get a link to click on and  
23 you'll be able to go in, and you will actually be able  
24 to apply for the job online. And so that's the approach  
25 that we're going to take on that.

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1                   On the task forces, you've already had the  
2                   update from Arthur on where we are with aquaculture and  
3                   pet food. We have two dockets that we are still working  
4                   on that -- one deals with crops and one deals with  
5                   processing. Again, the processing docket is going to  
6                   have some -- it will probably be held up because of the  
7                   court case. And I'll give you a short -- short update  
8                   where we are with the court case if you want, or if you  
9                   just simply want to hold off until tomorrow, that's  
10                  fine. It's up to you.

11                 CHAIRPERSON RIDDLE: Well, there's a lot of  
12                 people anxious to hear, but at the same time, they'll  
13                 want to hear tomorrow. So if you don't mind repeating  
14                 yourself --

15                 MS. ROBINSON: I do it all the time.

16                 CHAIRPERSON RIDDLE: -- I think it would be  
17                 helpful. Pardon?

18                 MS. ROBINSON: I always repeat myself, so I  
19                 don't mind. Well, okay, let me just run through sort of  
20                 the -- what happened and where we are today. On  
21                 January 26, the 1st Circuit Court of Appeals in Boston,  
22                 for the state of Maine, issued a decision on an appeal  
23                 and basically, the appeals court found in -- agreed with  
24                 the lower court, that is the district court, on all but  
25                 two counts that were raised in the appeal.

1           On the third count, which dealt with what you  
2   all know as 606, the court remanded back to the district  
3   court, the lower court, and said that it was not  
4   sufficient for the Department to simply assume the  
5   interpretation that it assumed. Rather, the Department  
6   would have to make explicit the interpretation on 606.

7           And the court considered six counts, and the  
8   court declared that it was a reasonable determination by  
9   USDA of whom to certify and who not to require to  
10   certify, essentially recognizing that those were not  
11   actively engaged in processing did not require  
12   certification. This was the argument raised about  
13   wholesalers not needing to be certified.

14           The court agreed with the Secretary on 606,  
15   but then, as I just said, declared it would like the  
16   Department to declare that 606 is -- constitutes the  
17   universe of what is commercially unavailable. The court  
18   did not disagree with the lower court that a certifier's  
19   logo is not confusing, but rather furthers the asked  
20   purpose in providing traceability on products that are  
21   less than 95 percent organic. The court also agreed  
22   with the Department that it was not an unreasonable  
23   restriction to forbid certifying agents from giving  
24   uncompensated advice.

25           And now we come to the two most important

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1 counts for most folks, and that is -- those were the  
2 counts the appeals court disagreed and overturned by the  
3 district court. The first is the 80-20 feed provision  
4 for dairy livestock. The court pointed to the plain  
5 language of the act and said that the Department had  
6 exceeded its authority when it wrote the regs, wrote the  
7 exception, and that livestock must be feed a total feed  
8 ration of organic.

9           The second count the court overturned was the  
10 claim that there could be synthetics in processed  
11 products. The court said plainly, the clear language of  
12 the act says that there can be no synthetics in  
13 processed products. What -- the way the court does this  
14 is they use a seminal case called the Chevron Case.  
15 That case basically says you first look at the language  
16 of the Congress. If the language of Congress is so  
17 plain that ordinary individuals could read it and come  
18 to the -- all come to the same conclusion, then you stop  
19 there and you say that's it. If on the other hand the  
20 language is ambiguous in some way, then the court is far  
21 more deferential to what the agency does, provided the  
22 Secretary, again, is not being arbitrary or capricious,  
23 but that the Secretary has chosen a reasonable course to  
24 proceed.

25           In these particular counts, particularly in

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1       the synthetic, the court basically read back two  
2       provisions in the act, which says that for -- one which  
3       says that certified handling operations may not add any  
4       synthetics during the processing or any post-harvest  
5       handling of the product. And in the other section of  
6       the law, which you're quite familiar with, is that  
7       substances may be added during processing only if they  
8       are nonsynthetic and not produced organically.

9               So then what happens? Well, the court issues  
10       its decision and then there's 45 days from the date of  
11       the appeals court decision -- that would be March 12,  
12       except that's a Saturday, so we roll over to the first  
13       Monday, so that takes us to March 14. By that time, the  
14       Solicitor General of the Department of Justice must  
15       recommend for an en banc, what's called en banc review.  
16       That's e-n b-a-n-c. Or -- and that would be a review  
17       before the full circuit court of appeals. The circuit  
18       court has already remanded the case back, so there is no  
19       point in going to a -- an expanded hearing at the  
20       circuit court level.

21              People have asked, could you go to the Supreme  
22       Court? The test for going to a supreme court is very  
23       stringent, and this case does not need meet those tests.  
24       In fact, it is -- many people have already said it was  
25       very unlikely that the Solicitor General -- and I don't

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1 know what the Solicitor General would recommend, before  
2 you ask me. But it is quite conceivable the Solicitor  
3 General would not recommend an en banc review in this  
4 case. The court has ruled for what meets -- what rises  
5 to justification for an en banc review, and those rules  
6 are whether there was unanimity or not among the judges.  
7 In this case there was a unanimous decision by all of  
8 the judges. Whether there have been conflicting  
9 decisions arising because of multiple court and multiple  
10 circuit court hearings and you know, different circuits  
11 disagreed, there have been none of those; whether the  
12 language itself was the plain language found in the act  
13 or the law versus the court providing its interpretive  
14 language of what the law says. And because they point  
15 to what's just there in black and white, it is highly  
16 likely that -- I shouldn't say highly because -- but it  
17 is possible the Solicitor General simply will not  
18 recommend for an en banc review.

19 At that point, the case goes back to the  
20 circuit court and the circuit court will issue what is  
21 called a summary judgment. That summary judgment will  
22 come back to the Department of Justice, and then the  
23 Department of Justice will inform the Department of  
24 Agriculture, and then we will have to comply with  
25 the summary judgment issued by the court. In all

1       likelihood, that compliance would -- will entail a  
2       rulemaking change. You know, if your regs are not in  
3       compliance with the law, you will be told to change your  
4       regulations. But unlike rulemaking that we do on a  
5       usual basis, where we go out and propose it and then  
6       issue it and ask for comments, we will not ask for  
7       comments, because we are complying with a court order.  
8       It's not -- this isn't a debate. The other alternative  
9       that is available, of course, is an alternative that was  
10      always open to the industry, and that is a legislative  
11      remedy. The industry is always free to go to the Hill  
12      and open up the act.

13               As I -- you know, now you know what we know.  
14      We do not know what the Solicitor General is going to  
15      recommend, and we do not know what the summary judgment  
16      will look like. And frankly, folks, this is the first  
17      time I've ever been involved in a case like this, so I  
18      don't even know what a summary judgment looks like. I  
19      don't think it's going to be very specific. They're not  
20      going to say change Section 205, dah, dah, dah, dah, you  
21      know? I mean, I don't think courts do that. I suppose  
22      it's possible. But, you know, the big question for us  
23      and the commitment that we have made, certainly to  
24      ourselves and we hope to this industry, is that whatever  
25      we have to do, we will do our -- we will press every

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1       limit that we can in order to, you know, minimize the  
2       disruption to whatever extent we can on the industry, as  
3       far as time lines, stream of commerce. Whatever it is  
4       that we can do, we'll definitely take advantage of,  
5       short of risking -- you know, one thing we do not want  
6       to do is become in contempt of the court. That would  
7       invite cutting off your funding, turning out the lights,  
8       you know, all kinds of things.

9               So that's really where we are. And as I've  
10       told folks before, as soon as we know something, you'll  
11       know it. There's nothing to be gained here by secrets  
12       or, you know, we don't have anything up our sleeves that  
13       we haven't told you about, and more heads are better  
14       than a few heads on this one. So that's where we are.  
15       Any questions?

16              CHAIRPERSON RIDDLE:   Rose?

17              MS. KOENIG:   I just had one question as far as  
18       that. And I know you may not have the answer, but when  
19       that federal notice would come out -- I understand it's  
20       not up for comment -- when is that active, the day that  
21       it comes out or is there a time period for the industry  
22       to adjust?

23              MS. ROBINSON:   That's one of the things we'll  
24       press for flexibility on. That's one of the -- you  
25       know, if the court comes back and tells you to change

1       your regs to get into compliance with the law, any  
2       agency would try to stretch it out as long as you can.  
3       Well, how long can we take? Now, you know, in all  
4       honesty, I don't know. I mean, obviously, we have a  
5       Sunset provision that's already on the way and you know,  
6       where everything would expire naturally,  
7       October 21, 2007, and that's 30 months away, 30-plus  
8       months away, and that's -- you know, is that good enough  
9       for the court? I have no idea, Rose, I really don't. I  
10      have -- you know, put that on the table, it does  
11      demonstrate that we do have a process under way.

12               MS. KOENIG: And one more question. Back to  
13      your comment on the remedies. If a remedy was from an  
14      act of Congress, say, you know, a case scenario that  
15      that act of Congress came, I would imagine -- you know,  
16      you make action for Sunset. Say, let's do that -- 207,  
17      and then say there was a remedy prior to that, then I  
18      guess things would be status -- go back to status quo,  
19      maybe. I don't know. But if the remedy comes after 207  
20      and everything's been taken off and now you want to put  
21      things back on, do you have to go through the whole --  
22      you essentially would have to go through the whole  
23      petition procedure to get --

24               MS. ROBINSON: Well, are you asking, if  
25      somebody fixed this in Congress, would it interrupt the

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1 normal Sunset process?

2 MS. KOENIG: No, I am talking about -- I'm  
3 saying that if something -- we can discuss it later.

4 MS. ROBINSON: Yeah.

5 MS. KOENIG: It's sort of scenario after  
6 scenario.

7 MS. ROBINSON: Right, right. I don't know. I  
8 mean, it would depend on what Congress does, clearly.

9 CHAIRPERSON RIDDLE: Bea.

10 MS. JAMES: Well, now that we know that we  
11 have confirmation from the court that, say for example,  
12 on one of the issues --

13 MS. CAUGHLAN: You don't have your mike on.

14 CHAIRPERSON RIDDLE: Yeah, please, get your  
15 mike.

16 MR. SIEMON: Hold on a second.

17 MS. JAMES: -- that synthetics are not  
18 allowed, going forward, how will we monitor or  
19 communicate to manufacturers and producers about that  
20 particular issue, and once there is a summary judgment,  
21 how are we going watch that and make sure that there's  
22 -- that that --

23 MS. ROBINSON: That there's compliance?

24 MS. JAMES: Yes.

25 MS. ROBINSON: The same way that we do now, we

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1       have a complaint procedure, we have a compliance  
2       process. We will, of course, be communicating  
3       immediately with all the certifying agents and  
4       explaining to them what the summary judgment is, what we  
5       have to do. Any changes that we make to the regulations  
6       will, of course, contain effective dates in them. And  
7       you know, remember, that when we threw the switch on the  
8       Program on October 21, 2002, we recognized at that time  
9       a stream of commerce issue, and we worked with that  
10      stream of commerce issue. And I believe, at that time  
11      -- Rick could probably correct me, but I'm almost  
12      positive that we said to folks was, you know, if you've  
13      got the paperwork to show that this was produced, you  
14      know, in this interim period and labeled, you know, no  
15      problem. You're -- it's just moving itself naturally  
16      through the marketplace. We do not have recall for any  
17      in this program, we don't have stop sale authority, so  
18      we can't yank a product off the shelf. But we didn't do  
19      it in October of '02, so -- but my basically reply is,  
20      we will use the same procedures that we have currently  
21      to ensure compliance with the NOP.

22                   CHAIRPERSON RIDDLE: Goldie.

23                   MS. CAUGHLAN: Just to point out, though,  
24      that, you know, in October of '02, it was up to you. It  
25      was up to the Department to make that decision, and that

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1       may not be up to you to make that decision. And that, I  
2       think, is what -- it's the guillotine that's hanging.

3               MS. ROBINSON: You're right, Goldie. As I  
4       said, we don't know what this court is going to say to  
5       us. You know, I don't know whether they write a  
6       decision that says effective immediately or effective  
7       when you feel like it or effective within a reasonable  
8       time. We don't know.

9               CHAIRPERSON RIDDLE: Hugh.

10              MR. KARREMAN: You probably can't answer this,  
11       but I have a number of transitioning dairy farmers right  
12       now and some that are in their second year, going to be  
13       in their third year in a few months. You probably can't  
14       answer it, but, I mean, if they're -- when this comes  
15       down the final -- you know, when it comes into effect,  
16       if the people are in their second and third year of  
17       transition doing the 80-20 and they're in good faith  
18       doing that, do you think that they would all of a sudden  
19       kind of have to start a whole new year of a hundred  
20       percent?

21              MS. ROBINSON: Well, look, I don't envision us  
22       -- again, I -- please don't hold me to this. Nobody was  
23       doing anything wrong, okay? Everybody has been  
24       following the regulation and doing what they are  
25       reading, you know, that we say the regulation is

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1 tantamount to the law. So everybody's been following  
2 that. Nobody's been doing anything wrong -- well,  
3 actually not complying with the regs. So the fact that  
4 a summary judgment comes out, doesn't mean we're going  
5 to run right out and yank everybody's certification.  
6 We're not going to suddenly suspend you because you were  
7 following the law; but today the law changes. The --  
8 there is -- there is a court case, in fact, that deals  
9 with that, that says that the -- you know, the  
10 government cannot retroactively punish for -- for the  
11 fact that the laws changed. It can't go back and go get  
12 you, and it'd be like going -- the IRS coming back and  
13 you know, suddenly saying you, you know, violated the  
14 tax code because they changed it in the middle of the  
15 year. Well, you don't do that.

16 Now, I don't -- for the future, from that  
17 point forward, Hugh, again, I don't know. But I know  
18 that nobody's going to get punished for complying with  
19 these regulations up until they get changed.

20 MR. KARREMAN: What I mean is if a dairy  
21 farmer is in his or her seventh month of that year,  
22 would they be still allowed to do that 80-20 for the  
23 last five months do you think? You probably can't  
24 answer it, so -- sorry.

25 MS. ROBINSON: No -- yeah.

1                   MR. KARREMAN: That's just going to be  
2 really --

3                   MS. ROBINSON: There's going to be a  
4 million --

5                   MR. KARREMAN: -- really weird.

6                   MS. ROBINSON: -- and one scenarios that  
7 people come up with and we're going to have to figure  
8 out some way to address them. But --

9                   CHAIRPERSON RIDDLE: I've got a couple  
10 questions, and they don't relate to scenarios or  
11 speculation, but rather the role of the Board, I guess.  
12 You know, what should we be looking at as far as, you  
13 know, our work plans and our role, you know, setting  
14 aside any legislative changes? Okay. And we get the  
15 summary judgment and the rule has to change to comply  
16 with the law on these two counts -- so actually on  
17 three, because on 606 there'll be a regulatory change  
18 there as well. Will the Board be consulted, active  
19 player, make a recommendation on these, or will you be  
20 pushing --

21                  MS. ROBINSON: Well, I think you're going to  
22 hear --

23                  CHAIRPERSON RIDDLE: -- in your position?

24                  MS. ROBINSON: -- you're going to hear from  
25 private folks, from folks in the industry, about the

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1 issues that they think you probably ought to be paying  
2 attention to. I don't think that's appropriate for me  
3 right now to stand here and give you, you know, my  
4 thoughts on what your work plan ought to be. As far as  
5 complying with the summary judgment, no, the Board won't  
6 -- I mean, Jim, we really won't have a role in it, I  
7 mean, other than -- if we can pick -- whatever we can --  
8 you know, if we can pick a time frame or something, but  
9 this is kind of like -- for all intents and purposes,  
10 you have heard from the Supreme Court, and basically,  
11 you will be told to -- we will be told to fix it and  
12 that's it. There won't be any, well, what do you think?  
13 How about if we do this? And while we're at it, we'll  
14 do this, and we will be told to fix the provisions of  
15 the regulation that, in the court's words, contravene  
16 the law. In other words, we exceeded the authority  
17 given to us by Congress, and there won't be any  
18 discussion about it.

19 CHAIRPERSON RIDDLE: But I understood you to  
20 say that you didn't anticipate that they would be, you  
21 know, micromanaging the language of the change to the  
22 rule. So someone's got to -- going to have to draft  
23 those changes to the rule.

24 MS. ROBINSON: Right.

25 CHAIRPERSON RIDDLE: And will the Board have a  
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1       role in that?

2               MS. ROBINSON: Well, I actually think that the  
3       legal counsel the Department will probably be telling us  
4       how to change that language.

5               CHAIRPERSON RIDDLE: Uh-huh.

6               MS. ROBINSON: And I don't think that there  
7       will be a whole lot of -- you know, truthfully, my best  
8       answer to you is, I honestly don't know.

9               CHAIRPERSON RIDDLE: Uh-huh.

10              MS. ROBINSON: I don't know how much --

11              CHAIRPERSON RIDDLE: I understand.

12              MS. ROBINSON: -- flexibility or who's -- you  
13       know, it may just be that the lawyers walk down the hall  
14       and say strike this provision, or do this or whatever,  
15       because, you know, it's not going to get out of the  
16       Department and get published, unless the legal counsel  
17       is satisfied that it comports with that summary judgment  
18       out of the court, because no one wants to go back there.

19              CHAIRPERSON RIDDLE: And then my other  
20       question -- the release of something on our agenda that  
21       we aren't likely to vote on, and that is the synthetic  
22       versus nonsynthetic guidance on making those  
23       determinations. That really does impact, you know, the  
24       fallout from this case. But there's been someone else  
25       that's done -- that some of the substances on the

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1       605(b), the synthetics list, are available in  
2       nonsynthetic form, and is that something the Board  
3       should be looking at, a re-review or a priority review  
4       for some of those substances and you know, not to give  
5       the appearance of contravening the --

6               MS. ROBINSON: Right.

7               CHAIRPERSON RIDDLE: -- you know, will of the  
8       court, that oh, all of a sudden, well, they were  
9       synthetic but now they're not synthetic.

10              MS. ROBINSON: I understand, I understand.

11              CHAIRPERSON RIDDLE: But it has to be based on  
12       the science and on -- you know, on this review and  
13       following procedures.

14              MS. ROBINSON: Well, all I can do is feedback  
15       to you what you guys have said to us, and that is that  
16       you want to have input to these things. So why -- I  
17       guess what I'm asking, Jim, is why ask whether you can  
18       initiate that? Why don't you just -- why can't you  
19       initiate that?

20              CHAIRPERSON RIDDLE: I like it when you say  
21       that.

22              MS. ROBINSON: Well, I mean, let me put it  
23       like this. Suppose we initiated it. What would you be  
24       telling me?

25              CHAIRPERSON RIDDLE: Wait for us.

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1 MS. ROBINSON: Right. Okay. So your question  
2 was answered?

3 CHAIRPERSON RIDDLE: All right. Is there  
4 someone who hasn't spoken yet?

5 MS. JAMES: Jim --

6 CHAIRPERSON RIDDLE: Yeah, Rigo.

7 MS. JAMES: -- you know --

8 CHAIRPERSON RIDDLE: Well --

9 MS. JAMES: I'm sorry.

10 CHAIRPERSON RIDDLE: Yeah.

11 MS. JAMES: But also on that comment, though,  
12 we don't want to waste our time, either.

13 CHAIRPERSON RIDDLE: Yeah.

14 MS. JAMES: There's so many other issues to be  
15 addressed, that if you spend a lot of time trying to  
16 help propel something and not really have that voice  
17 heard --

18 CHAIRPERSON RIDDLE: Yeah.

19 MS. ROBINSON: You know, March 14 is --

20 CHAIRPERSON RIDDLE: Thank you.

21 MS. ROBINSON: -- two weeks away, and then,  
22 you know, there's a short period of time after that  
23 before you'll likely hear back from me. The district  
24 court and -- while it may be good to begin to prepare,  
25 or certainly prioritize the issues that you think need

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1 to be addressed, I don't know as I'd be sitting down and  
2 rewriting 7 C.F.R. a total of five --

3 CHAIRPERSON RIDDLE: No.

4 MS. ROBINSON: I think with patience, calm,  
5 take a deep breath, everybody just -- I know this is  
6 frustrating, believe me, not nearly as frustrating as if  
7 I was one of you folks who are producing something, or  
8 one of you folks who are supplying the product to  
9 producers. But it's generally been my experience that a  
10 good approach at times like is just take a deep breath  
11 and stay calm and you know, figure out -- look at all of  
12 the options and all of the things that could happen,  
13 before we just go chasing down one way or the other.  
14 And we'll work with this industry as best we can.

15 CHAIRPERSON RIDDLE: Um-hum. Rigo?

16 MR. DELGADO: Thank you. Just for  
17 clarification, I understand that we still have to wait  
18 for the recommendation from the Solicitor General?

19 MS. CAUGHLAN: Get into the microphone. I  
20 can't even hear you.

21 MR. DELGADO: Well --

22 MS. CAUGHLAN: Sorry.

23 MR. DELGADO: -- just for clarification, in  
24 fact -- we still have to wait from the recommendation  
25 that the Solicitor General is going to give us, correct?

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1 MS. ROBINSON: He's not going to give a  
2 recommendation to us, he will make --

3 MR. DELGADO: Well, he will --

4 MS. ROBINSON: Right.

5 MR. DELGADO: What is it, then?

6 MS. ROBINSON: The Solicitor General makes the  
7 decision whether or not to go forward, and he will  
8 decide -- he will tell us his decision. But it is up to  
9 the Solicitor General whether or not to petition the 1st  
10 Circuit Court of Appeals. And as I said, the mere fact  
11 -- maybe I didn't. The mere fact that you don't like  
12 the decision that you get is not a sufficient reason to  
13 petition the court, otherwise, as you know, it would all  
14 be -- everything would go to court every day, because  
15 there's at least one party that's never happy with the  
16 decision. So we have made our analysis known to the  
17 Solicitor -- USDA, and it's not me, it's attorneys in  
18 the USDA work with the corresponding appellant attorneys  
19 for the Department of Justice. Those are the folks that  
20 actually represent the U.S. government in court cases.  
21 And so they are well aware of the importance of this  
22 decision and its implications.

23 CHAIRPERSON RIDDLE: Rose?

24 MS. KOENIG: You know, part is my lack of  
25 understanding, and I guess the -- I've heard -- of

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1 course, different people interpret different things, I  
2 guess. But does the NOP feel that it's going to impact  
3 all categories of labeling, the 70 percent "Made With,"  
4 the 95 percent and the 100 percent? Are all of those  
5 impacted as far as your analysis on that decision?

6 MS. ROBINSON: Well, all we can do is read  
7 what the court is pointing to, and the court is pointing  
8 to the language that says the certified handling  
9 operation. So -- and we don't have any more insights.  
10 Under your regulation, a certified handling operation is  
11 a processor. The certified handling operation has --  
12 could make a hundred percent organic product, they could  
13 make a 95 percent organic product, they could make a  
14 "Made With" product and make a less than a "Made With"  
15 product. They can make anything. The court pointed to  
16 the entity and the activity, not to the labeling. So,  
17 you know, a feed processor is a certified handling  
18 operation. And you know, the court's language -- that  
19 the act says no synthetics shall be added during any  
20 post-harvest handling or any processing of any such  
21 product. A full stop. And that's what we're reading  
22 and that's what you're saying, and that's not anything  
23 new, that's there in the act.

24 MS. KOENIG: So would that also impact, in  
25 your opinion, post-harvest treatments on things like in

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1 crops, like for example, in ripening of some of the  
2 fruits? That's a -- it's a crop material, but it is a  
3 post-harvest application. Have you analyzed that or  
4 not? I mean, that's just something to think about. I  
5 don't know.

6 MS. ROBINSON: Well, I'm not a lawyer.

7 MS. KOENIG: Okay.

8 MS. ROBINSON: Like I said, I'm reading the  
9 same language that you are, and it's tied up in  
10 synthetics and what you do. Okay, I'm done. That's it?

11 MS. KOENIG: No --

12 CHAIRPERSON RIDDLE: Um-hum.

13 MS. KOENIG: -- this has a -- okay.

14 CHAIRPERSON RIDDLE: Rose?

15 MS. KOENIG: Moving off of that whole subject,  
16 is there anybody that can -- I don't know if it's  
17 fruitful at this point. We did have some questions on  
18 those annotations. I don't know if you want -- if you  
19 don't want to comment or Arthur doesn't want to comment,  
20 but you were discussion some of the things that we were  
21 going around the Board with, and one was this  
22 annotations or modification of annotations. Is there  
23 any clarity or position that the Department has on that  
24 discussion?

25 MS. ROBINSON: You lost me on that one. Can

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1 we back into that?

2 CHAIRPERSON RIDDLE: Okay. Yeah, the Federal  
3 Register notice for Sunset --

4 MS. KOENIG: Yeah, because Sunset --

5 CHAIRPERSON RIDDLE: -- and what --

6 MS. ROBINSON: Oh, oh, oh.

7 CHAIRPERSON RIDDLE: -- is in play --

8 MS. ROBINSON: Oh, it is possible --

9 CHAIRPERSON RIDDLE: -- during those reviews.

10 MS. ROBINSON: -- that a statement -- you  
11 know, that doesn't necessarily mean that the Sunset  
12 docket would have to be held up, but obviously, a  
13 statement would have to be issued either amending that  
14 docket or in that docket that said, effective  
15 October 21, 2007, all synthetics -- no synthetics would  
16 be allowed for processing.

17 MS. KOENIG: No, that's not what I was  
18 meaning.

19 CHAIRPERSON RIDDLE: No, no, no, no.

20 MS. ROBINSON: Oh.

21 MS. KOENIG: We're getting off that subject.

22 MS. ROBINSON: Oh, okay, okay. But I thought  
23 that's you meant. Sorry.

24 MS. KOENIG: You don't even have to think  
25 anymore about that case.



1 MS. ROBINSON: All right.

2 MS. KOENIG: The question was, when we  
3 discussed this -- you know, the Sunset in terms of  
4 identifying certain materials that have annotations that  
5 may trigger review, you know, that discussion we had  
6 about technical versus a substantial change in that  
7 annotation and would it have to be repetitioned. I  
8 don't know if you had thought about that or have a  
9 position on that. If not, you know, we don't have to  
10 discuss it.

11 MS. ROBINSON: Yeah.

12 MS. KOENIG: But I was just wondering if you  
13 have anything --

14 MS. ROBINSON: I don't right at this time. I  
15 don't know what kind of flexibility you have on that.  
16 Arthur may have something more.

17 MR. NEAL: We're going to take it under  
18 advisement.

19 MS. ROBINSON: Oh. I guess we're taking that  
20 under advisement. Is that a good topic on your  
21 response? All right? Nothing else?

22 MR. SIEMON: -- time, but we're going to let  
23 you off easy.

24 CHAIRPERSON RIDDLE: You're coming back  
25 tomorrow.

1 MR. CARTER: Jim?

2 CHAIRPERSON RIDDLE: Yeah, Dave.

3 MR. CARTER: Just one question, a procedural.

4 CHAIRPERSON RIDDLE: Um-hum.

5 MR. CARTER: And Barbara mentioned the -- the  
6 notice on the guidance document, and I'm wondering, do  
7 we have anything -- have you thought anything while  
8 we're convened how the Board is going to formally, you  
9 know, provide a comment on that guidance document?

10 CHAIRPERSON RIDDLE: Yeah. Well, I read it  
11 when it first came and made some notes, but then held  
12 off on drafting anything for consideration by the Policy  
13 Committee, because I wanted to see the collaboration  
14 document because I see a linkage between those, and I  
15 was quite concerned, in reading the good guidance  
16 document, that there was only one reference to the NOSB  
17 and that was just as a potential commenter, similar to a  
18 trade association, that no role in the formulation and  
19 drafting of guidance. And in reality, we now are  
20 engaged in the drafting of guidance and I think that is  
21 critical for public confidence in the Program and just  
22 good -- coming up with good guidance.

23 So, you know, Barbara has told us that the  
24 draft that she presented us will not be significantly  
25 different than the collaboration document that will be

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1 coming out. So I think that the committee should, you  
2 know, take a look at that document. You know, the clock  
3 is ticking. April 4 is the deadline for comments on the  
4 good guidance docket. So I guess I would like to see  
5 that as one of the top priorities for the Policy  
6 Development Committee and you know, get some comments  
7 in. Whether they -- I mean, we won't have them done to  
8 be addressed by the Board at this meeting. They aren't  
9 on our agenda, anyway. But if the Executive Committee  
10 could review those at our next meeting, I will have to  
11 schedule a meeting sometime in March or maybe April 1 to  
12 act on it. But if the Executive Committee can be  
13 empowered to take final action on that Policy Committee  
14 draft, I think that's the best we can do.

15 And we can't begin public input, we can't  
16 begin consideration of action items here in the  
17 remainder of today, so unless there are other, you know,  
18 discussion items that Board members would like to bring  
19 up, I would suggest that --

20 MS. CAUGHLAN: Jokes, jokes.

21 CHAIRPERSON RIDDLE: Jokes. I would  
22 suggest --

23 MS. CAUGHLAN: A little lightening?

24 CHAIRPERSON RIDDLE: I would suggest that any  
25 committees that need to do any homework or, you know,

1 review the materials in the meeting book and we take the  
2 time for committee meetings, and I guess the one  
3 committee I would request to meet is Policy Development,  
4 to consider some changes on the AAFCO recommendation,  
5 because there is some new information coming out of the  
6 Labeling Committee meeting in Phoenix. And so if we  
7 could consider that and if we can meet -- I don't know.  
8 Are there other committees that would like to meet Rose?

9 MS. KOENIG: I think go -- again, these are  
10 the issues we had with the Crops Committee because  
11 there's three materials. Even though Nancy isn't here,  
12 if members of that committee could perhaps get together  
13 and kind of review the information, I think it would be  
14 helpful.

15 CHAIRPERSON RIDDLE: Oh. And -- yeah, I would  
16 like to just read this into the record, because we do  
17 have the five new members that introduced themselves and  
18 they do have -- have been assigned to committees, so I  
19 would like to read each of the committees and the new  
20 composition.

21 So the Compliance, Accreditation, and  
22 Certification Committee: Andrea Caroe, chair, myself,  
23 Mike Lacy, Julie Weisman, and Bea James.

24 The Crops Committee: Nancy Ostiguy, chair,  
25 Rose Koenig, Gerald Davis, Rigoberto Delgado, and Bea

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1 James.

2 The Handling Committee: Kevin O'Rell, chair,  
3 Goldie, Andrea, Julie, and Bea. If I'm going too fast,  
4 just let me know.

5 But the Livestock Committee: George Siemon,  
6 chair, Nancy, Dave Carter, myself, Mike Lacy, Hugh, and  
7 Rigoberto.

8 The Materials Committee: Rose Koenig, chair,  
9 Goldie, Nancy, Gerald Davis, Hugh, and Julie Weisman.

10 And Policy Development: Dave Carter, chair,  
11 myself, Kevin, Andrea, and Rigoberto.

12 And I have asked the committee chairs -- well,  
13 the entire -- each of the committees to be looking to  
14 the very short-term changes, especially for the  
15 committees where the chairs are on their last year of  
16 their term, and to have a new committee chair  
17 identified, certainly prior to the next meeting, to be  
18 passing the torch, as it were, to new committee chairs  
19 on short order. So anything else on the committee --  
20 any other committees that need to meet? Any comments?

21 MR. SIEMON: Maybe Hugh -- but maybe at least  
22 -- I think you and I are the only Livestock ones. I'd  
23 like to give you --

24 MR. KARREMAN: Sure. Get that out of the way?

25 CHAIRPERSON RIDDLE: Yeah.

1 MR. KARREMAN: Okay.

2 CHAIRPERSON RIDDLE: Okay, that's not an  
3 official meeting. The microphones weren't turned on, so  
4 you guys just need to talk. Yeah, Bea?

5 MS. JAMES: I have a question --

6 CHAIRPERSON RIDDLE: Yeah.

7 MS. JAMES: -- about the changeover of the  
8 Board and some concerns regarding the new members coming  
9 in, and that being almost half of the Board membership,  
10 and then next year we're going to be, like, the senior  
11 members, I would think. Is that something that we at  
12 some point should discuss, or should we save that for  
13 another time, or should that be done over the years?

14 CHAIRPERSON RIDDLE: It is.

15 MS. CAUGHLAN: Maybe the day after the years.

16 MR. O'RELL: Yeah, yeah.

17 CHAIRPERSON RIDDLE: Yeah. And I think it's a  
18 real structural problem, and it's something that was a  
19 concern of mine when I first came on the Board, because  
20 at that time it was, you know, five members going off  
21 three years in a row, and then two years where no one.  
22 It's staggered a little differently, but now we're going  
23 to get a year where there's six members that go off.  
24 And at that time, I propose the matrix to transition  
25 into three members every year, so then you've always got

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1 12 members for continuity. There may be some problems  
2 with OFPA, but I don't -- I don't know. But to me, I  
3 invite the new Board members to tackle this and try and  
4 propose something to get more continuity.

5 MS. JAMES: Well, yeah. I mean, I just have a  
6 lot of concerns about it, because I know that even  
7 though we all have our respective expertise, that as a  
8 Board committee that's doing something so important,  
9 that the senior membership is, like, critical for  
10 success. And it just makes -- I mean, you know, when I  
11 volunteered for this position, nobody told me I would  
12 be, like, a senior member in a year.

13 CHAIRPERSON RIDDLE: You've never advanced so  
14 fast professionally.

15 MS. JAMES: Yeah. And I rely on the expertise  
16 of the people who have been doing this for, you know,  
17 five years, four years, to help mentor us into how to --  
18 how to do this, because it's not only studying and  
19 learning the different respective areas that need to be  
20 addressed, but it's also the process, which is something  
21 that you can't learn except from somebody who's been  
22 doing it.

23 CHAIRPERSON RIDDLE: Um-hum.

24 MS. JAMES: So I just -- you know, I just want  
25 to bring it up, but I don't know if it's -- I feel like

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1 even though I'm brining it up, it's kind of like, well,  
2 you know, give me the turkey, because that is not --  
3 that there's nothing you can do about it.

4 CHAIRPERSON RIDDLE: Uh-huh.

5 MS. JAMES: But it is something that, as us as  
6 just the group, I would like to be able to discuss.

7 CHAIRPERSON RIDDLE: Um-hum. Yeah. OFPA  
8 clearly prohibits a Board member who's served a full  
9 term from being reappointed, so that's not an option.

10 MS. KOENIG: Jim?

11 CHAIRPERSON RIDDLE: Yeah, Rose.

12 MS. KOENIG: I mean, one option would be not  
13 only for this present group, but NOP could cordially ask  
14 past NOSB members if they're willing to serve as a  
15 mentoring group. They could not vote, but they could be  
16 -- they could have a list of those still -- the past  
17 Board members that are still interested in  
18 participating. But, you know, they can't serve as --  
19 and I don't know. I mean, that's something maybe you  
20 should think about as a new member, in what capacity do  
21 you think people could be utilized.

22 MS. JAMES: So if the Board now was to try to  
23 create something like that and make it inviting so that,  
24 you know, previous charter members could come in and  
25 help mentor us and still get some of the support from

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1 the USDA for funding that, is that something that we  
2 could propose?

3 MS. CAUGHLAN: You could propose it.

4 CHAIRPERSON RIDDLE: Yeah, yeah, to Dave and  
5 -- and I'm just looking in OFPA and under term, a member  
6 of the Board shall serve a term of five years, except  
7 the Secretary shall appoint the original members of the  
8 Board for staggered terms. And they were appointed on  
9 staggered terms, but just three years out, that's why  
10 you got five, five, and five. But it does not say that  
11 it's locked into those staggering rotations as such. So  
12 that could be a change recommended, or, you know,  
13 keeping advisors or mentors on. I mean, we love coming  
14 to these meetings.

15 MS. JAMES: I'm sure.

16 MR. SIEMON: It might be a fine line between  
17 staggered and staggering.

18 CHAIRPERSON RIDDLE: Staggering terms.

19 MR. SIEMON: Yeah.

20 CHAIRPERSON RIDDLE: Yes. Dave?

21 MR. CARTER: Well, no, you brought up the  
22 point I was going to make, was the five years. But just  
23 from an anecdotal side, Bea, the thing that you will  
24 find is you will become less impressed with the senior  
25 knowledge the more you work with us.

1 MR. SIEMON: Thanks, Dave.

2 CHAIRPERSON RIDDLE: Rose, again.

3 MS. KOENIG: The other thing, too, that, you  
4 know, maybe we could work within, right now there is a  
5 green -- you know, the green book out there that -- that  
6 -- well, Michael Sligh has. I know he's made copies for  
7 the new Board members, and we receive those. Those are  
8 a compilation of the old minutes. There are minutes  
9 that are on the web, at least for 2001. So certainly  
10 there are tools out there to kind of get yourself up to  
11 speed on some of these issues. So just maybe we can  
12 give you guidance as far as some of those resources,  
13 also. And -- but, I mean, I think we're all open to  
14 thinking of innovative ways to utilize past knowledge.  
15 I mean, you can always call individuals.

16 MS. JAMES: Right. And I'm not just, you  
17 know, thinking of myself on this Board, I'm thinking  
18 of --

19 MS. CAUGHLAN: Structurally.

20 MS. JAMES: -- structurally going forward into  
21 the future that to be the most effective would be to  
22 always kind of deal with -- encapsulate some of the  
23 wisdom from the people who have been doing it for  
24 awhile.

25 CHAIRPERSON RIDDLE: Um-hum. Yeah, and  
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1 speaking of one, Kim has something to offer.

2 MS. DIETZ: Yeah, we had a great discussion at  
3 length on the very topic, so I encourage you to pull up  
4 the past recommendations of the Board, because we  
5 tackled this for a couple of years knowing this day was  
6 coming, and we certainly didn't just drop it on you,  
7 Bea. We really tried to improve the rollover period.  
8 The other thing is, I noticed that Bea was on three  
9 committees and I would encourage you not to join more  
10 than two.

11 MS. CAUGHLAN: Somebody just got three seats.

12 MS. DIETZ: There's a tremendous time  
13 commitment, calls and that sort of thing, that you don't  
14 want to spread yourself too thin. It takes a lot work,  
15 so just think about it. Maybe that should be in the  
16 policy manual, that you try not to be on more than two  
17 committees, especially if you guys are going to be  
18 chairing probably next year.

19 CHAIRPERSON RIDDLE: Well, there are quite a  
20 few people on three committees.

21 MS. WEISMAN: Yeah, we all are.

22 CHAIRPERSON RIDDLE: Yeah.

23 MR. O'RELL: Um-hum.

24 CHAIRPERSON RIDDLE: Sorry. You know, I'm  
25 just --

1 MS. CAUGHLAN: But it doesn't mean it's the --

2 CHAIRPERSON RIDDLE: -- the only lucky one.

3 MS. CAUGHLAN: -- effective use.

4 CHAIRPERSON RIDDLE: No, no, but we have six  
5 committees and 15 members.

6 MS. CAUGHLAN: Fourteen.

7 CHAIRPERSON RIDDLE: Well, in theory, we have  
8 15. Okay, we're definitely leaning towards the  
9 staggering. Any other comments before we break for some  
10 committee work?

11 MS. CAUGHLAN: A restroom break.

12 CHAIRPERSON RIDDLE: A restroom break. Okay,  
13 well, we will recess for today. And then we --

14 MR. CARTER: The Policy Committee will  
15 reconvene here in about 10 minutes.

16 CHAIRPERSON RIDDLE: In 10 minutes, and we  
17 reconvene for a public input session tomorrow morning at  
18 8:00 a.m.

19 MS. KOENIG: Perhaps, also, I don't know --  
20 there may be some overlap, but if perhaps -- at least  
21 the people that are members, if we can reconvene in  
22 about 10 minutes, and then if we have to set a different  
23 time because you've got other committee obligations, we  
24 can meet at --

25 UNIDENTIFIED SPEAKER: Like at 6:30.

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1 MS. KOENIG: -- 6:30.

2 CHAIRPERSON RIDDLE: But we already know that.

3 \*\*\*

4 [End of proceedings]

5 \*\*\*

CERTIFICATE OF REPORTER, TRANSCRIBER AND PROOFREADER

IN RE: National Organic Standards Board

HELD AT: Washington, D.C.

DATE: February 28, 2005

We, the undersigned, do hereby certify that the foregoing pages, numbered 1 through 117, inclusive, are the true, accurate and complete transcript prepared from the reporting by the reporter in attendance at the above identified meeting, in accordance with applicable provisions of the current USDA contract, and have verified the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the meeting, and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the meeting.

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